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REPORT

THE JOINT COMMITTEE OF THE
SENATE AND HOUSE OF REPRESENTATIVES
OF THE COMMONWEALTH OF PENNSYLVANIA
TO CONSIDER AND REPORT UPON A REVISION OF
THE CORPORATION AND REVENUE LAWS
OF THE COMMONWEALTH
TO THE LEGISLATURE

Pursuant to Joint Resolution of May 14, 1911

(Testimony not included)

**To the Senate and House of Representatives
of the Commonwealth of Pennsylvania:**

Gentlemen:—On May 24, 1911, (P. L. 1151), the following resolution, adopted by your Honorable Bodies, was approved by the Governor.

IN THE SENATE, MAY 23, 1911.

A CONCURRENT RESOLUTION EXTENDING THE PROVISIONS OF THE CONCURRENT RESOLUTION, APPROVED MAY 13, A. D. 1909, PROVIDING FOR THE APPOINTMENT OF A JOINT COMMITTEE OF THE SENATE AND HOUSE OF REPRESENTATIVES TO CONSIDER AND REPORT UPON A REVISION OF THE LAWS OF THIS COMMONWEALTH RELATING TO CORPORATIONS AND TO REVENUE FOR THE EMPLOYMENT OF COUNSEL AND OTHER NECESSARY OFFICERS AND EMPLOYEES, AND GIVING IT AUTHORITY TO COMPEL THE ATTENDANCE OF PERSONS AND THE PRODUCTION OF BOOKS AND PAPERS.

Resolved, (if the House of Representatives concur), That the concurrent resolution approved May 13, 1909, entitled "A concurrent resolution providing for the appointment of a joint committee of the Senate and House of Representatives to consider and report upon a Revision of the Laws of this Commonwealth relating to Corporations and to Revenue; for the employment of counsel and other necessary officers and employees, and giving it authority to compel the attendance of persons and the production of books and papers," be, and the same is hereby extended, as follows: That the present President pro tempore of the Senate shall appoint three Senators, and the present Speaker of the House of Representatives shall appoint three of its members, which shall constitute a joint committee, whose duty it shall be to consider the laws of this Commonwealth relating to corporations and to revenue and the practical working thereof, and to report to the General Assembly in 1913 whatever changes may be deemed necessary therein, together with the draft of an Act or Acts of Assembly to accomplish said changes, and together with such recommendations as may be deemed necessary relative to the administration of existing

laws or as to the enforcement of said suggested Act or Acts. Said committee shall have power to elect its own chairman, to sit after the adjournment of the Legislature, to employ legal counsel and such other officers and employees as may be needed to enable it to properly perform its duties as aforesaid; but its expenditures shall be limited to the amount provided therefor in the general appropriation bill to be passed at this session of the Legislature, and shall be paid out of the State Treasury upon vouchers signed by the chairman of said committee.

Said committee shall also have power to issue subpoenas, signed by its chairman, requiring the attendance of persons and the production of books and papers, as in its judgment will assist in the performance of its duties as aforesaid.

Approved—The 24th day of May, A. D. 1911.

JOHN K. TENER.

In compliance with the said Resolution, your Committee has the honor to report:

As the Resolution recites, it is an extension of the provisions of a Concurrent Resolution, approved May 13, 1909.

Pursuant to the authority of the Resolution of May 13, 1909, a Joint Committee, consisting of James P. McNichol, William H. Keyser and William C. Sproul, Senators, and James F. Woodward, David Hunter, Jr., and Gabriel H. Moyer, Representatives, was appointed and served. They "considered the laws of this Commonwealth relating to corporations and to revenue and the practical workings thereof, and reported to the Legislature of 1911 the changes they deemed necessary therein, together with the drafts of Acts of Assembly to accomplish said changes, and recommendations relative to the administration of existing laws, and as to the enforcement of the said suggested Acts."

A short resumé of the results of the work of that Committee, composed, as it was, of the same senators and members, with the exception of two, as the present committee, we believe to be appropriate and instructive.

The following Acts recommended by the Committee were adopted by the Legislature of 1911:

"An Act to provide for the better collection of money and taxes due the Commonwealth, and property belonging to, or liable to escheat to, the same."

See report of 1911, page 209.

Act of June 15, 1911, P. L. 974.

By this Act the Auditor-General was given full power to discover taxes due the Commonwealth from persons and corporations, and to recover the same. It was an enabling and effective measure.

The Auditor-General reports, (December 17, 1912):

"Over \$150,000 of taxes have been collected through attorneys employed by the Auditor-General by authority of the Act of June 15, 1911, P. L. 974, and cases are still pending wherein additional moneys due the Commonwealth will be recovered under the provisions of the same Act. We consider this Act of Assembly a great aid to the workings of this Department, but some of its provisions have not as yet been invoked in aid thereof."

"An Act making appropriations to institutions not wholly managed by the Commonwealth of Pennsylvania, liens on the premises of such institutions, for the use of the Commonwealth, and providing for the collection thereof."

See report of 1911, page 56.

Act of June 9, 1911, P. L. 736.

By this Act all moneys appropriated by the Commonwealth for the erection, enlargement or alteration of any buildings, or for any permanent improvement in connection with any institution not wholly managed by the Commonwealth, were made non-interest bearing liens on the property of the institution, and provision was thereby made to secure the return to the Commonwealth of the moneys so appropriated in the event of a judicial sale, or if the institution ceased to be used for the purpose for which it was organized.

Prior to this Act many millions, approximately \$8,000,000, had been donated by the Commonwealth to charitable institutions over which there was no dominating State control, for the construction, alteration, enlargement, improvement, etc., of buildings, etc., and such institutions, so enriched at the public cost, could at any time dispose of their property for their individual benefit. Such disposal would clearly be a perversion of the Commonwealth's philanthropy, which is prevented by this Act.

It is but fair to say that the nearest approach to such a condition has been that some institutions which received such donations have discontinued the receipt of State aid, and, though not legally bound to render charitable service, have continued so to do.

The Act was recommended not because of any past actual loss thereabout, but to allay a somewhat general feeling that the money of the Commonwealth so given should be secured from diversion to other uses.

It will be noted that this Act, like several others adopted by the Legislature of 1911, while not in the exact language of that recommended by the Committee, is, in substance, the same, and its introduction was evidently prompted by the recommendation.

"A joint resolution proposing an amendment to Article 9, Section 4, of the Constitution of the Commonwealth of Pennsylvania, authorizing the State to issue bonds to the amount of \$50,000,000 for the improvement of the highways of the Commonwealth."

See report of 1911, pp. 127-131.

Pamphlet Laws, 1911, 1162.

This again was not in the language advised by your Committee, but the effect was the same.

The purpose of this is to enable the Commonwealth to create a State debt not exceeding \$50,000,000 for the im-

provement and rebuilding of the highways to meet the needs of the people for good roads. The Committee, (of 1911), after declaring the necessity therefor, and comparing the work done in other States with that of Pennsylvania, reported, in recommending substantially the above amendment, "your Committee is of opinion that our borrowing power should be enlarged to meet the demand, (for better roads), and thus enable us to keep pace with our sister Commonwealths in this respect."

"A joint resolution proposing an amendment to Section 1, Article 9, of the Constitution of Pennsylvania, relating to taxation."

See report, 1911, page 150.

Resolution Pamphlet Laws, 1911, page 1167.

The proposed amendment provides that "the subjects of taxation may be classified for the purpose of laying graded or progressive taxes." This subject will be further considered in the report of the work of the present Committee.

"An Act providing for the report to the Auditor-General, by the prothonotaries of the courts of common pleas, of corporations incorporated by such courts."

See Report of 1911, pages 191-193.

Act June 11, 1911, P. L. 738.

Prior to this Act many corporations chartered by the Court ostensibly as not for profit, though engaged in business and subject to tax on corporate loans, such as base-ball and exhibition companies, which were required to register with the Auditor-General, did not do so. As the charter did not emanate from Harrisburg there was no record there to advise State officers so that reports for purposes of taxation might be required.

The Auditor-General reports (Dec. 17, 1912):

"In relation to the Act of June 9, 1911, P. L. 738, entitled 'An Act providing for the report of the Auditor-General, by the prothonotaries of the courts of common pleas, of corporations incorporated by such courts,' will say that the prothonotaries of the State are making a limited number of reports provided for by this Act of Assembly. Since the enactment of this law we have received in this Department about 150 returns by prothonotaries, mostly from Philadelphia, Allegheny and Lackawanna Counties."

"A Joint Resolution providing for the issuing of an invitation to neighboring States to a conference with respect to the taxing of oil, gas and bituminous coal."

See Report, pages 161-164.

Resolution, June 19, 1911, P. L. 1044.

The Committee of 1911 recommended a tax on anthracite coal in which Pennsylvania had a monopoly, which will be hereinafter treated, but in view of the fact that bituminous coal, oil and gas were in the immediately adjoining States of Ohio, West Virginia and Maryland, with which Pennsylvania coal, oil and gas competed, it was deemed wise to have the taxation of these three commodities considered by a Commission representing these States and an equitable tax levied by each, which would be fair to all.

The Governor has not appointed delegates to represent Pennsylvania at such a conference, nor has he invited the Governors of other States so to do.

"An Act in relation to the printing of appropriation bills in the Pamphlet Laws."

See Report of 1911, pages 226-227.

Act, June 10, 1911, P. L. 872.

Act, June 3, 1911, P. L. 664.

Resolution, June 3, 1911, P. L. 1153.

Heretofore the appropriation bills have been printed in full in the Pamphlet Laws at large cost to the Com-

monwealth, increasing the size of the book fully one-third and with no practical benefit to the people. Hereafter a tabulated list of appropriations will be published in the Pamphlet Laws, and an edition of 3,000 copies of the appropriation bills in full will be issued and distributed, so that all necessary publicity, etc., will be accomplished thereby. This will result in a substantial biennial saving of the cost of printing the Pamphlet laws of at least 22,000 copies of these bills.

“An Act authorizing the establishment and maintenance of psychopathic wards in certain hospitals; providing for the regulation thereof, the commitment of persons suffering with mental disorders to such wards, and for the payment of the expenses of maintaining and treating persons committed thereto.”

See Report of 1911, page 98.

Act, June 9, 1911, P. L. 855.

Joint Resolution, June 14, 1911, P. L. 927.

The Act of June 9, 1911, is intended to provide psychopathic wards in hospitals where mental conditions, such as neurasthenia, hysteria, etc., not amounting to insanity, can be investigated and treated without the stigma attaching to residence in an asylum for the insane.

The Joint Resolution of June 14, 1911, provided for “a Commission to investigate and report to the General Assembly a place for the segregation, care and treatment of feeble-minded and epileptic persons, the object being to devise some remedy for unrestrained propagation of these defectives.”

A “Commission on the Segregation, Care and Treatment of the Feeble-minded and Epileptic,” composed of Joseph S. Neff, M. D., Samuel G. Dixon, M. D., Isaac Johnson, George W. Ryon, Patrick C. Boyle, Cyrus B. King, Edward K. Rowland and Frank Woodbury, M. D., was duly appointed and is actively engaged in compiling statistics of the feeble-minded and epileptic in Pennsyl-

vania. It has held sessions once a month, in Philadelphia and Harrisburg, and has visited a number of institutions in this Commonwealth, New York, Massachusetts and New Jersey. Circular letters and return postal cards have been sent to the various school districts, county medical societies and public institutions of different kinds where the defective class of persons might be found, including almshouses and jails. Conferences with superintendents and experts in this Commonwealth and elsewhere have been held, and opinions obtained upon the various subjects relating to the investigation, and we have no doubt that the report of their labors will fully justify the creation of the Committee.

"An Act requiring sheriffs, receivers, trustees, assignees, masters or other officers, having charge of the sale of the property or franchises of corporations, limited partnerships or joint stock associations, to notify the Auditor-General of such sale, and to read at the sale a certificate, to be furnished by him, relative to liens for State taxes, bonus and other public accounts settlements; providing a fee for said officer, and imposing a penalty for neglect or refusal to perform such duties."

See Report of 1911, pages 214-217.

Act, June 21, 1911, P. L. 1098.

Prior to this Act certain officials having the distribution of funds from the sale of corporate property were required to make certain that the State had been paid, but as there was no penalty for non-compliance, and as the title conveyed was not affected thereby, the requirement was frequently ignored. The penalty for non-compliance provided by this Act should be effective.

"An Act amending Section 4 of an act entitled "An Act imposing additional taxes for State purposes, and to abolish the Revenue Board," approved the thirtieth day of April, Anno Domini one thousand eight hundred and sixty-four; by re-

quiring the treasurer of each school district and chief officer of each incorporated district to make report, under oath, to the Auditor-General of the amount of scrip, bonds, or certificates of indebtedness outstanding in their respective districts."

See Report of 1911, pages 192-193.

Act, May 11, 1911, P. L. 236.

The Act of 1864 intended under the designation "incorporated districts" to include "school" districts; with respect to the duties of treasurers thereof to deduct the State tax from the interest paid to the holders of the bonds thereof.

The Attorney-General, on December 17, 1908, so ruled, but in view of the confusion of officials and taxpayers thereabout this amendment was recommended and adopted.

"An Act making State taxes, unpaid bonus, interest, penalties and all public accounts a first lien upon the franchise and property of corporations, companies, associations, joint stock associations, and limited partnerships against which the same may be settled; providing for enforcing the payment thereof, and for the furnishing of certificates as to the existence of such liens upon application thereof; and repealing Section 4 of the Act approved April sixteenth, one thousand eight hundred and twenty-seven."

See Report of 1911, page 231-232.

Act, June 15, 1911, P. L. 955.

The Act of June 1, 1889, P. L. 437, made State taxes a preferred claim. The Act of April 16, 1827, required the Auditor-General to record settlements for purposes of lien in the counties as soon as possible. This resulted in the imposition of great labor upon the Department of the Auditor-General, and to follow up these settlements was beyond its force.

As the records were all in the Auditor-General's office, the Committee recommended that as the proper place for liens, and the right of that official to certify them to the

proper county at any time and with the privilege of any one interested to obtain from him a copy thereof. This Act adopts these recommendations and repeals the said Act of 1827.

The suggestion contained in your Committee's draft Act relating to inheritance taxes, that adopted children be exempted from the tax now laid on collaterals became law by the Act entitled

"An Act providing that estate passing from an adopting parent to a legally adopted child or children shall not be subject to the collateral inheritance tax."

See Report of 1911, page 141.

Act of May 5, 1911, P. L. 112.

WORK OF THE PRESENT COMMITTEE.

The resolution directs the Committee "to consider the laws of this Commonwealth relating to corporations and to revenue and the practical working thereof, and to report to the General Assembly in 1913 whatever changes may be deemed necessary therein, together with the draft of an Act or Acts of Assembly to accomplish said changes, and together with such recommendations as may be deemed necessary relative to the administration of existing laws or as to the enforcement of said suggested Act or Acts."

A more herculean task it would indeed be difficult to impose, and one impossible of fulfillment within the allotted time.

These two subjects cover, include or ramify into all of the Commonwealth's activities and directly or indirectly touch and affect the people at almost every point of endeavor in their business and social lives. They present opportunities for inquiries and investigations which have engaged, as respects revenue, the best thought of the political and social economists of all ages, and as respects corporations, their serious consideration during the last half century, and at no time more so than during the last decade, in which they have become an almost dominating factor in the conduct of the business of the Nation and, indeed, of the whole world.

For the purpose of giving an opportunity to the people to present their views, we have mailed upwards of fifty thousand letters as follows:

DEAR SIRS—The Legislature of Pennsylvania, on May 23, 1911 (P. L. 1150), adopted the following resolution:

"Resolved, That the concurrent resolution approved May 13, 1909, entitled 'A concurrent resolution providing for the appointment of a joint committee of the Senate and House

of Representatives to consider and report upon a revision of the laws of this Commonwealth relating to corporations and to revenue; for the employment of counsel and other necessary officers and employees, and giving it authority to compel the attendance of persons and the production of books and papers,' be and the same is hereby extended as follows: 'That the present President pro tempore of the Senate shall appoint three Senators, and the present Speaker of the House of Representatives shall appoint three of its members, which shall constitute a joint committee, whose duty it shall be to consider the laws of this Commonwealth relating to corporations and to revenue and the practical working thereof, and to report to the General Assembly in 1913 whatever changes may be deemed necessary therein, together with the draft of an Act or Acts of Assembly to accomplish said changes, and together with such recommendations as may be deemed necessary relative to the administration of existing laws or as to the enforcement of said suggested Act or Acts. Said committee shall have power to elect its own chairman, to sit after the adjournment of the Legislature, to employ legal counsel and such other officers and employees as may be needed to enable it to properly perform its duties as aforesaid; but its expenditures shall be limited to the amount provided therefor in the general appropriation bill to be passed at this session of the Legislature, and shall be paid out of the State Treasury upon vouchers signed by the chairman of said committee. Said committee shall also have power to issue subpoenas, signed by its chairman, requiring the attendance of persons and the production of books and papers, as in its judgment will assist in the performance of its duties as aforesaid."

The committee is collecting data upon the formation, regulation and taxation of corporations and the appropriations of State revenue for all purposes, in this State, in all of the United States, by the Federal Government, and by other nations. These subjects are being specially discussed and legislated upon at the present time throughout the world.

The committee desires the co-operation of all interested in these subjects and requests your opinion as to any defects in the present laws of the Commonwealth relating to the formation, regulation and taxation of corporations, associations, partnerships or individuals, the exemption of them or any of them from taxation, the appropriation of the revenue of the State, and any changes therein which you may think necessary.

You will notice that the resolution requires a report to **be** made to the Legislature in 1913, and we therefore request **an** early reply, as it is important that all suggestions be received for consideration prior to the public meetings which the committee may hold. We should also be glad to have from you **the** names and addresses of any persons whom you may know **who** are specially qualified to give to the committee information **or** assistance in the consideration of these most important subjects.

Very truly yours,

JAS. F. WOODWARD,
Secretary.

Please reply to
FRANCIS SHUNK BROWN,
Counsel.

These letters were sent to all of the individuals, institutions, associations and corporations in the Commonwealth as follows:

National Banks,
State Banks,
Trust Companies,
Savings Institutions and Bankers in the State,
Members of the Lawyers' Club, and of the Law Association of Philadelphia, and
Members of the County Bar Association and Representative Lawyers of Pennsylvania,
Newspapers in Pennsylvania,
Trade Journals,
Commercial Journals,
Medical Journals,
Dental Journals,
Legal Journals,
Members of the Pennsylvania Bar Association,
Trade Associations,
Business Associations,
Building and Loan Associations,
All Judges of all Courts,
Insurance Companies,
State Officials,
County Officials, (every county),

Members of State Senate,
Members of House of Representatives,
Mayors of principal cities, boroughs, etc.,
Officials of Hospitals.
Homes, State Institutions, semi-State Institutions,
Manufacturing Companies,
Gas Companies,
Water Companies,
Land Companies,
Land Improvement Companies,
Homestead Companies,
Hotel Companies,
Miscellaneous Companies,
Brick Companies,
Clay Companies,
Stone Companies,
Slate Companies,
Quarry Companies,
Bridge Companies,
Turnpike Companies,
Brewing Companies,
Distilling Companies,
Coal Companies,
Coke Companies,
Coal Mining Companies,
Oil Companies,
Mining Companies,
Light, Heat and Power Companies,
Market Companies,
Railroad Companies,
Railway Companies,
State Grange,
Transportation Companies,
Ferry Companies,
Telephone Companies,
Telegraph Companies,
Fertilizer Companies,
Electric Light Companies,

Foreign Corporations registered with the Auditor-General.

And to thousands of representative citizens throughout the Commonwealth and elsewhere, known to us, or of whom we were informed, as being interested in the subjects under consideration.

Every interest and activity of the Commonwealth affected by the payment to, or expenditures by, the Commonwealth, or having to do with the creation, conduct or regulation of corporations, was so recognized and communicated with, and appreciation of this recognition was expressed in many letters, containing opinions, suggestions, and recommendations, as various as the writers, to all of whom we have replied and with many of whom we have discussed in detail the subjects involved.

We have collected much data upon both of the subjects, formation and regulation of corporations and State revenues, and upon the relation of State revenues to those of the Commonwealth's several subdivisions; from all the States of the United States, and from the Federal Government and from foreign countries. We have also obtained information as to the methods of assessing and collecting taxes from all cities of the world having a population of one hundred thousand and upwards, and upon all of these matters we have sought the opinions of authors of books, past and present, treating thereupon.

Your Committee held public hearings in Philadelphia, Pittsburgh, Erie and Scranton. Over 10,000 notices thereof were sent to all interests throughout the Commonwealth, and all newspapers were requested to inform the people of these meetings, so that as a result of this they received the widest publicity, and the opportunities for hearings and the general discussion were the subject of favorable editorial and news comment. We were cordially received in these several cities, and the interest of the people in our proceedings, and their knowledge and discussions of the subject were earnest and helpful.

In Philadelphia your Committee heard representatives from hospitals and charitable institutions in that city and surrounding counties, educational institutions, physicians, financial institutions, trust companies, Real Estate Brokers' Association, life insurance companies, Board of Revision of Taxes, county officials, Manufacturers' Club, Pennsylvania Manufacturers' Association, Mayor of Philadelphia, street railway companies, Pennsylvania Railroad Company, corporations of all classes and representative men prominent in general activities, county officials from Montgomery, Chester, Delaware, Bucks and Berks Counties, and the Mayors of Easton, Reading and Chester.

In Pittsburgh, Pa., your Committee heard representatives from hospitals, homes and other charitable institutions in that city and surrounding counties, manufacturers, bankers, trust companies, City officials, county officials, County Tax Revision Board, Bar Association, real estate brokers, Single Tax Society, educational institutions, Chamber of Commerce, Retail Dealers' Association, glass manufacturers, steel and iron interests, State Grange, insurance companies, Allegheny County Laundrymen's Association, Pennsylvania State Laundrymen's Association, Manufacturers' Association, Pennsylvania Manufacturers' Association, corporations of all classes, county officials of surrounding counties, the Mayor of Pittsburgh and representative men of that locality.

In Erie, Pa., your Committee heard representatives from charitable institutions, lawyers, city and county officials, Board of Trade, Chamber of Commerce, farmers, bar associations, merchants' associations, public service corporations, manufacturing companies, Pennsylvania Manufacturers' Association, corporations of all classes and representative men of the locality.

In Scranton, Pa., Your Committee heard representatives from charitable institutions, city and county of-

ficials, Mayor of Williamsport, Board of Trade, Bar Association, water companies and other public service corporations, coal companies, financial institutions, brokers, manufacturing companies, corporations of all classes, and individuals who were the representative men of the locality.

In all upwards of 100 persons spoke at these hearings, gave their opinions and suggestions and were questioned by your Committee and counsel. Many hundreds appeared as spectators, but affected by the subjects under consideration. Your Committee gave the utmost latitude for discussion and suggestion, both at the public hearings and by means of letters and arguments to it in written form, and these public meetings were a practical success.

Not only attorneys representing various interests appeared before us, but business men as well, encouraged to present their views in their own way, and they gave in many cases the most valuable material for consideration. The State Grange, Manufacturers' Associations, Board of Trade, charitable aid societies, real estate brokers' associations, and, best of all, those who represented the community at large were heard and their views have been considered. Such a subject as the taxation of anthracite coal brought out an admirable discussion of all sides of the problem.

Counsel for the Committee attended all the hearings and aided in questioning those who appeared, and in general consulted with your Committee in all the steps taken and conclusions arrived at.

CORPORATION LAWS

The Committee of 1911 reported:

"While most of the information and argument addressed to your Committee was on the subject of the revenue laws of the State, yet a great deal of material was gathered on the subject of the corporation laws generally which was entrusted to them by the Resolution.

"Aside from the Acts applying specially to all varieties of corporations, and particularly to railroad, insurance and banking corporations, some of which are incorporated under statutes existing prior to 1873, corporations of the class known generally as business corporations are incorporated in our State under the Act of April 29, 1874, and its very numerous amendments and supplements, which amount to the number of fifty-seven. In addition there are over a hundred other Acts which apply to the same subject.

"It is an undoubted fact that in the thirty-six years during which the law has been in existence, in consequence of these supplements and amendments, the law has unavoidably fallen into a state of contradiction and confusion on many points (particularly by reason of subsequent amendments ignoring those previously made), and is in some other points not in accord with the modern trend of legislation. Many matters have been suggested as to which these laws may be improved; and these have commended themselves to your Committee. But they do not feel that the situation is one which calls for a piecemeal revision. The laws are familiar and have been construed on most moot points, so that their operation upon every-day matters is well understood. It is not deemed advisable to recommend any radical changes until a complete revision of the whole body of the law can be presented as a corporation code or system, and such few matters as need to be cleared up or supplied can be deferred until that time. Such changes from the settled policy of the State as are deemed presently advisable can be better made in this way, and be better fitted to the body of the existing law.

"A uniform business corporation law is now under consideration by the Conference of Commissioners on Uniform State

Laws. The first draft of such a law was made and printed in December, 1909, and presented for public discussion, and your Committee has been much interested in its perusal. At the same time this is not the final draft of the law, some parts of it having since been further revised and furnished to your Committee; and a further revision is to follow. The Commissioners have themselves advised your Committee under date of October 21, 1910, to defer action in this regard. In view of the very general adoption of many of the laws recommended by this conference, Pennsylvania having adopted the Negotiable Instruments law (1901, P. L. 194), and the Warehouse Receipts law, (1909, P. L. 19), Bills of Lading Act, (1911, P. L. 838), Stock Transfer Act, (1911, P. L. 126), your Committee feels that before a general revision of the corporation law is undertaken, the proposed uniform business corporation law should have careful consideration.

"Following the report of a special committee, the Pennsylvania Bar Association, at its meeting in 1910, adopted a resolution for the appointment of a committee to draft and present an Act to the next Legislature for the appointment of a commission to revise and unify the statutes of the State. The majority of the Bar Association Committee has determined that the task of going over the whole statute law is too much to be done in the first instance, and has recommended that a definite branch of the law be considered by such a commission to report to the Legislature of 1913, and that the branch of the law to be taken up should include, among other things, private corporations, meaning by this to exclude public service corporations, insurance companies and the like.

"If your Committee is continued it will co-operate with that of the Bar Association in the consideration of this most important subject. This action of the committees of the Bar Association successively narrowing the field of proposed statutory revision is another evidence of the very large nature of the task, which has made it impracticable if not impossible for your Committee, with the means at its disposal, to do aught but lay some of the ground for future work.

"Your Committee, therefore, does not submit any recommendations with respect to the laws in general governing the organization and conduct of corporations. If the duties of the Committee be continued, as hereinafter recommended, this and other subjects not presently ripe for legislation can be investigated and considered and reported upon to the Legislature of 1913."

Your Committee, in fulfilment of its promise, as above, has made further investigation and given serious consideration as to the best way to accomplish the desired object; that is, to codify or put into orderly shape the Act of 1874 and the many amendments and supplements thereto, so that all who have to do with the formation and regulation of corporations can easily learn and understand their rights and obligations thereabout.

We have deemed it inadvisable to attempt to so codify the laws relating to all kinds of corporations, considering it better to proceed along the lines followed by the Conference of Commissioners on Uniform State Laws, and the Pennsylvania Bar Association, and limit our action to Private Business Corporations, excluding those engaged in public service, insurance and the like, the opinion of the Committee being that once there was adopted a satisfactory Act relating to private business corporations, it could be easily adjusted to include the other classes.

To this end we submit the draft of "An Act to provide for the incorporation, regulation and dissolution of certain business corporations," which is made part hereof. See Appendix after red leaf.

In this draft are given the present law, the changes proposed or suggested, the reason therefor, the States where the law agrees, or, as the case may be, differs, with that of Pennsylvania, and the decisions of the Courts thereabout, all these features so presented that "he who runs may read."

Nearly 11,000 copies of the draft of this proposed Act were distributed throughout the Commonwealth among all trust companies, savings institutions, bankers, lawyers, newspapers, trade and commercial journals, legal journals, trade and business associations, all State officers and Judges, members of the State Senate and House of Representatives, and members of the United States Senate and House of Representatives from Pennsylvania, build-

ing and loan associations, and to individuals known to be interested in the purposes of the Act. Copies were also sent to the Secretaries-of-State of all States of the United States, each copy accompanied by the following letter:

DEAR SIR:—This Committee submits herewith, for your careful consideration, *criticism* and *suggestion*, a tentative draft of a proposed 'Act to provide for the incorporation, regulation and dissolution of certain business corporations.'

This Act has been prepared in deference to a general opinion and desire of all having to do with corporations, that the Act of 1874 (our general corporation law), and its many amendments (some inconsistent with others), should be embodied in one Act.

This is not in final shape, but is given to the public in this form, in much detail, to fully inform all interested, and to invite the fullest discussion, *criticism* and *suggestion*.

The resolution appointing this Committee requires a report to be made to the Legislature in January, 1913, and we therefore request an early reply with any *criticism* or *suggestion*, as it is important that all suggestions be received prior to the public meetings which the Committee will hold in November. We also request the names and addresses of any persons whom you may know who are specially qualified to give to the Committee information or assistance in the consideration of this and State revenue, etc., etc.

Yours very truly,

JAS. F. WOODWARD,

Secretary.

Please reply to

FRANCIS SHUNK BROWN,

Counsel.

which explained the attitude of the Committee thereto.

Hundreds of letters have been received in response to that communication. These contain, approval, as a whole, criticisms of the suggested changes, proposals of amendments by others, and some oppose any change in present laws. They are from representative lawyers from all sections of the Commonwealth, and a few from outside. They evidence an unusual interest in the subject, and justify the preparation and distribution of the draft. Though requests by the Committee, of the Bar and others

interested, for co-operation to the preparation of a concrete Corporation Act, had been time and again made, the responses had been few until the appearance of this proposed Act. All of which is to the Committee strongly persuasive, that, whilst it is difficult to have our citizens take the initiative in a subject, intelligent treatment of which combines legal learning and business ability and experience, they are ready to intelligently and unselfishly criticise the creature of authority when impressed with the belief that the public welfare and that alone prompted its creation.

Your Committee has considered these criticisms and suggestions and as a result thereof have in several respects made changes therein. Whilst this proposed Act would appear to contain the up-to-date thought of those whose opinions are "worth the while" and who have been sufficiently public-spirited to express them, your Committee feels that the recasting and codifying of the law upon a subject of almost universal application and of such vital import to the business life of our Commonwealth, should not be concluded until almost the "last voice" has been heard.

They appreciate that a radical change of the corporation laws might possibly at the present time be harmful to the Commonwealth, and whilst they do not assume the position that it would be better to "bear the ills we have than fly to others that we know not of," because they believe the proposed Act would cure some of our ailments thereabout, they have concluded that a little further time for consideration, etc., may be helpful.

They are also induced to this view by the following letter from the Conference of Commissioners on Uniform State Laws:

December 17, 1912.

FRANCIS SHUNK BROWN, Esq.,

1005 Morris Building, Philadelphia.

DEAR SIR:—Responding to your request for an expression of opinion as to the advisability of urging for passage a tentative draft of an Act providing for the incorporation, regula-

tion and dissolution of certain business corporations, I have to say that I have examined the proposed Act prepared by the Joint Committee of the Senate and House of Representatives, which has been sitting during the year and for which you are counsel, though not with the critical care it deserves.

I see that the proposed Act is the outcome of much thought, and I doubt not, if adopted, would be in many respects an improvement upon the existing law. It would seem, however, to be the part of wisdom not to urge this Act for passage at the coming session of the Legislature, if for no other reason, because the Conference of Commissioners on Uniform State Laws, made up of representatives of all the States, has under consideration the draft of a uniform law which it is hoped will be completed within a year, or, at most, two years.

It is obvious that there is great need for uniformity of legislation among the States on the subject of corporations. The success that has attended the efforts to secure uniformity on various commercial subjects, notably the Negotiable Instrument Act, the Warehouse Receipts Act, the Bills of Lading Act, the Sales Act and the Transfer of Stock Act, all of which, excepting the Sales Act, have been adopted in this State, warrants the belief that a uniform Act upon the subject of the incorporation of business companies may be reasonably expected. With this thought in mind, I think it would be wise to wait until another session of the Legislature before pressing for the passage of any new bill on the subject. The delay will give time for further study and comparison of views among experts, the result of which will surely be advantageous.

There is a justifiable discontent with the existing corporation law of the different States, and public opinion demands a remedy for acknowledged evils; but the problem is a difficult one and cannot be successfully solved by any one State, though, of course, if no agreement can be obtained upon a uniform law, we must accept the separate action of the State, and it will then be time to take up the Act suggested by your Committee.

Very truly yours,

(Signed) WALTER GEORGE SMITH.

P. S. The foregoing letter is approved by my colleagues on the Commission, Hon. Wm. H. Staake and Robert Snodgrass, Esq.

They therefore do not recommend the adoption of the proposed Act at this session of the Legislature.

A Summary of Changes in Proposed Law follows:

**SUMMARY OF THE PRINCIPAL CHANGES IN THE
LAW PROPOSED IN THE DRAFT OF AN ACT TO
PROVIDE FOR THE INCORPORATION, REGULA-
TION AND DISSOLUTION OF CERTAIN BUSI-
NESS CORPORATIONS.**

(Page references are to Appendix, after red leaf.)

The suggested Act applies only to Private Business Corporations. It does not relate to public service corporations (see p. 7a), or those organized for the purpose of insurance, building and loan, banking, or any business intended to derive profit from the loan or use of money, or which needs to condemn lands, or occupy highways, or corporations not for profit.

It has been prepared on the principle that no change in the present law should be made unless strong reasons exist therefor. The language of the present law is retained except when it is ambiguous, or strikingly awkward. As the main object of the Act is to clarify and simplify existing law, in the arrangement of the sections the Act of 1874 is disregarded, while several matters are included, notably the part on dissolution, which are not covered by existing statutes. When any act is prohibited the penalty and method of its enforcement is provided for in the same section.

The following are the principal changes in the suggested Act, with a brief statement of the reasons therefor.

A. Right to Incorporate for More than One Kind of Business.

Under existing law no corporation can be chartered with authority to transact more than one kind of business. In the suggested Act a corporation may be formed for two or more purposes (Section 2, page 7a), each purpose to be stated separately in the articles of incorporation. (Section 3, 1 (b), page 11a.) This change is in accordance with the legislation in the majority of the States,

the argument in its favor being that while it is clear that a public service business should not be combined with a purely private business, no set reason has been given why persons engaged in a purely private business should be obliged to confine themselves to one purpose. The corporation, with the consent of two-thirds of its stockholders, may change or add to its purpose or purposes. (Section 11 (1), page 35a, Section 11 (3), page 37a.) This also accords with the legislation in the great majority of the States.

B. Incorporation Complete on Issuance of Certificate— Letters Patent.

The suggested Act provides that incorporation shall be complete upon the issuance of the certificate of incorporation by the Secretary of the Commonwealth. Under the present law the certificate must be recorded in the office of the Recorder of Deeds of the county where the chief operations are to be carried on before incorporation is complete. (Section 6 (1), page 23a.) This has resulted in litigation upon the validity of acts done after the letters patent have issued, and before they have been recorded. It has also necessitated the passage from time to time of statutes validating, upon proper recording, acts done after the issuance of letters patent, and before record. The sub-section suggested removes the cause of this litigation and avoids the necessity of validating acts. By Section 9 (page 27a) recording in the office of the Recorder of Deeds of the county in which the principal office of the corporation is to be located is made a condition precedent to the commencement of business, and if debts are incurred before such recording, the directors responsible therefor are made jointly and severally liable.

The certificate is made conclusive evidence of due incorporation, whereas at present it is merely "competent evidence." (Section 6 (2), page 23a.) Under the present law, however, the Commonwealth is practically the only party which can question the certificate, in view

of the principle that there can be no collateral attack upon its validity. In the suggested Act, the Secretary of the Commonwealth and the Governor must be satisfied that the requirements of the Act have been complied with before the certificate of incorporation is issued. When they have so satisfied themselves, and the certificate has been issued, the corporation should be protected thereafter from attack even by the Commonwealth. If false statements are made in the articles, the charter is subject to be forfeited. (See Section 61.) In suggesting this change in the present law the Act follows the law of Massachusetts and of England.

C. Fifty Per Cent. of the Capital Stock To Be Paid Before Commencement of Business.

The suggested Act distinguishes sharply between the right to become incorporated and the right to commence business. No changes, except in minor detail, are made in the existing method of securing "letters patent," or, as it is designated in the suggested Act, "certificate of incorporation." But before a corporation can commence business, "fifty per centum of the amount of capital stock specified in the articles of incorporation shall have been subscribed." (Section 9 (1) (b), page 29a.) There is no provision in the present law requiring that any definite amount of capital stock shall be subscribed before the corporation begins business, though the requirement that ten per cent. must be paid in prior to incorporation indirectly requires that at least that amount must be subscribed prior thereto. The additional requirement obviously is for the protection of creditors and is a substantial earnest of the character of the corporation.

D. Purchase by the Corporation of Shares of Its Own Stock Restricted.

Under the present law a corporation may invest its surplus or other funds or earnings in the purchase of

shares of its own capital stock. The suggested Act prohibits such a purchase unless the shares of stock are paid in full and the consideration for them is paid out of the surplus of the corporation. (Section 13 (1a), page 55a. See *ibid.* (b) and (c), page 57a for certain exceptions.)

The purchase by the corporation of its own stock reduces, at least temporarily, the capital stock, which is the fund on which creditors rely for payment. If the stock purchased is not full paid this fund is diminished as long as the stock is held by the corporation, and therefore it is submitted that the corporation should be permitted to invest its surplus in its own stock only when full paid.

E. Purchase of Stock of Other Corporations Limited.

Under existing law corporations may purchase the stock of other corporations, either for the purpose of control or investment. The suggested Act limits the holding of the stock of another corporation to 20 per cent. of the outstanding stock of such corporation. (Section 14, page 61a.)

If adopted this provision would prohibit what is known as the "Pyramid" and other forms of purchase for control. At the same time, the limitation, in view of the large number of corporations whose stock it may purchase, in no wise curtails the ability of the corporation to make purchases for the purpose of investment.

F. Provisions Designed to Prevent "Watered Stock."

Under the present law, while it is expressly provided in the State Constitution (Art. 16, Sec. 7), that no corporation shall issue either stock or bonds except for money, labor done, or money or property actually received, it is possible to issue stock and bonds greatly in excess of the real value of the property. The present law does not provide any method by which the issue of

stock and bonds far in excess of the real value of the property can be prevented; while in case of loss to creditors, they only recover against the directors by proving actual fraud. The suggested Act provides that the directors are required to file in the office of the Secretary of Commonwealth a statement, verified by affidavit, setting forth the location, quantity and description of the property, the number of shares or the value of the bonds to be issued; the names and addresses of the owners of the property or persons giving the labor or services, and their interest, if any, in the corporation; if the owners are officers, directors, or stockholders of the corporation, the price paid or agreed to be paid by them for the property which is to be transferred to the corporation must be given, and also copies of the contracts by which they acquired the ownership.

An issue of stock for property in violation of the provisions of the section is made void. (Section 20, page 71a.)

Where stock or bonds are to be issued for labor or services, a similar statement must be filed. (Section 20, page 71a.)

G. Forfeiture of Stock in Certain Cases for Non-Payment of Calls and Assessments.

Under the present law, in case of non-payment of an assessment on stock, the directors are authorized to sell a sufficient number of shares to pay the amount due. In the suggested Act this power is continued, and in addition thereto, if a sufficient amount shall not be bid at such sale the stock and all previous assessments thereon may be forfeited to the corporation. (Section 23 (3), page 81a.)

H. Shares Not Full Paid—Liability of Transferor.

The suggested Act requires certificates representing shares not full paid to have printed or stamped on their

face the words, "Not full paid." If this provision is violated, an immediate liability to the corporation for the amount unpaid is imposed on the corporate official responsible. (Section 26, page 85a.)

The purpose of this provision is to afford protection not only to the purchasers of the stock, but also to creditors of the corporation.

Under the present law, the transferor, though not relieved from liability by the transfer or attempted transfer, for assessment and calls theretofore made, is relieved from liability for calls of the corporation after transfer. Under the suggested Act the transferor would remain liable for the amount, if any, remaining unpaid on such shares, for one year from the date of the transfer, though no call or assessment had been made before transfer, but the liability of the transferor would be secondary to that of his transferee. (Section 28 (2), page 89a.)

The change is based on the theory that where the holder of non-full paid stock desires to transfer it, it is impracticable to go into questions of the financial condition of the transferee at the time of the transfer, and that therefore the transferor should be placed in the position of an insurer of the solvency of the transferee for at least a definite period of time. To put the matter in another way, the sub-section is a compromise between the practical necessity of protecting the creditors of the corporation and the desirability of making marketable stock which is not fully paid.

I. Liability of Directors for False Statements.

Under the present law, the directors of certain corporations (Clause 18, Corporations) are liable for all the debts contracted during their term of office, if they sign a statement containing a material representation, knowing the same to be false. The same liability, though limited to the amount of the dividend, is imposed in case a

dividend is declared when the corporation is either insolvent or would be made insolvent by the payment of the dividend. In the suggested Act, in the case of false statements, the directors and officers are only liable to the creditors of the corporation for any loss or damage arising therefrom; but, on the other hand, they are liable in such case, not only when they knew the statement to be false, but also when with reasonable care they could have known it to be false. (Section 45 (a), page 123a.)

The liability for illegal dividends is made a liability to the corporation for the amount of such illegal dividend. If the liability is not enforced by the directors within 60 days, any director who dissented to the declaration of the dividend, or any stockholder, or any judgment creditor of the corporation may bring an action in the name of the corporation to enforce the liability. (Section 45 (b), page 123a.)

The reason for this form of liability is that when the capital stock is illegally taken there should be an immediate liability imposed on those who have wrongfully taken it to replace the amount taken, instead of compelling creditors to wait until the insolvency of the company, when the directors responsible for the act may no longer be connected with the company and be difficult to reach.

J. Method of Enforcing Liability for Unpaid Subscriptions in case Assets are not Sufficient to Pay Creditors.

Under the suggested Act, the liability of stockholders in case the assets of the corporation are insufficient to pay its creditors can be enforced only by a receiver appointed by a court of equity on a bill brought by any stockholder or stockholders, or by any creditor or creditors. The right of a judgment creditor to attach any debt due by a stockholder to the corporation for calls or assessments is preserved. (Section 38 (4), page 109a.)

Under the present law there is continual confusion as to the proper method of enforcing liability for unpaid subscriptions. It is submitted that the remedy of the creditors should be clear and definite, and that the only proper method when the corporation has insufficient property to meet its liabilities is to give to the creditors the right to have a receiver appointed, who, under the supervision of the court, can proceed against the stockholders and distribute the fund ratable among the creditors.

K. Special Reports to Secretary of the Commonwealth.

The Secretary of the Commonwealth was given power in the tentative draft to call for special reports from any corporation when he deems it necessary. The suggested tentative draft also provided for official investigation of the affairs and conditions of any corporation by the Secretary or a person appointed by him for that purpose. (Section 47, page 131a.) This section is based on the principle that an executive officer of the Commonwealth should be permanently charged with the duty of making investigations, whenever in his judgment it is necessary for the Commonwealth to have complete information in regard to the condition of a corporation. See notes, page 131a.

L. Consolidation of Corporations.

The sections relative to the consolidation of corporations follow the present legislation, except that it is provided that the consolidated corporation shall not issue paid up capital stock in exchange for the capital stock of the consolidating corporations to an amount greater than the aggregate amount of the paid up capital stock of such corporations, plus any additional contributions of capital at the time of the consolidation. (Section 51, page 139a.)

The purpose of this is to prevent over capitalization

by the issuance of new stock in exchange for the old stock in excess of the value received by the new corporation.

M. Dissolution.

In the suggested Act a method of voluntary dissolution is provided, similar to that in force in New Jersey and numerous other States. The directors wind up the affairs of the corporation without recourse to the courts, unless an application for a receiver is made by an interested party, in which case the court may, in its discretion, appoint such receiver, who supersedes the directors or any assignee in possession. (Sections 58-64, pages 151a-161a.)

Section 65 provides for the appointment of a receiver upon insolvency, and makes insolvency a ground for dissolution if, in the judgment of the court, the corporation should be dissolved.

INVESTMENT COMPANIES.

A strong demand came to your Committee for the exercise by the Commonwealth of "paternalism" with respect to what are conveniently termed "Investment Companies." Upon the programme of the Republican State Convention of 1912, was the enactment of such a law. Your Committee recommends the draft of an Act effective to accomplish part of the purpose desired. (See page 37.)

This purpose is to prevent the offering to the public of securities of corporations which either have no assets behind them, or which solicit money from customers to be used in speculative investments, or otherwise, upon schemes which are financially unsound. Both the "Mexican Rubber Plantation" men and the "Get-rich-quick" syndicates, which propose to multiply the money of their customers by speculating on the Stock Exchange, and which never pay profits to anyone except out of the capital contributed by later victims, are reached by this Act. By it all companies offering securities for sale, both domestic and foreign, are required to file with the Commissioner of Banking, their charter, their by-laws, and their scheme of doing business, as well as copies of all contracts which they propose to make with customers, and a statement of their financial standing. All changes in the method of doing business, and all changes of contracts are also required to be so submitted before they are put into effect, and periodical reports of financial standing and special reports from time to time as demanded, are prescribed. The Commissioner also has complete visitorial powers, as in the case of banks. If the concern is financially unsound, or if its scheme of doing business is wrong, it is refused a license, and the selling of securities without such license is an offence.

When the law has been so complied with the securities are then required to be so stamped, and also that the Commissioner does not in any wise recommend these securities. Such a law leaves ample room for every legitimate business enterprise, but it protects the people, not worldly or financially wise, from the consequence of using their small savings in ways with which they are unfamiliar and of the soundness of which they cannot judge. In these days there is a great deal of investment in securities of the value of which even an astute man can form no adequate judgment. A man who puts his money in a mortgage on a house can go and look at the house and the neighborhood and have the title examined. But a man who puts his money in an Oregon apple orchard can have no possible idea of the real merits of the particular enterprise, and probably has no trustworthy idea of the reliability of the people with whom he deals. And yet the prevalence of investments by leading members of the financial community of such kind that an accurate original estimate of value cannot be formed—as, for example, in the case of railroad securities—is a temptation to the man of small means to put his money into what he thinks are similar lines. Granting to the large and the small man the fullest liberty to risk his money as he sees fit, he should be protected from what (on the part of the man who seeks his money) is a false pretense,—false either because of lack of assets or because of a business method mathematically doomed to failure instead of success. Why should not the investor be protected when he puts his savings into an investment of the kind indicated, just as he is protected when he puts his savings into a bank for the benefit of his old age, or into the purchase of an insurance policy for the benefit of his family?

The regulative force of public opinion does not affect these concerns. It has been strong to force public utility companies to make improvements in service, because

those who make public opinion come in daily contact with the service. The investing class is much smaller and in most cases does not come into personal contact with financial management. The power of government should interfere when the individual is incapable of protecting himself, and this Act will be helpful.

But this law does not cover the whole field. It will reach the sale of securities in this State by the company which issues them and will prevent the solicitation of money from our citizens by concerns which are insolvent, or which propose to do business upon a fraudulent plan. But it is much more difficult to reach the individual who sells securities issued by another concern. An attempt to regulate the doing of business by such persons would interfere with ordinary legitimate brokerage business, and probably also with transactions between individual citizens. It would not be practicable to compel a broker before he sold a share of stock of a corporation located, let us say, in the mining regions of the Pacific coast, to have the solvency of the corporation approved by the Commissioner of Banking. The broker has no means of compelling the corporation to make a report, or the information to make it himself. And yet the sale of such securities is both useful and necessary. Even the sale of the securities of an insolvent concern is sometimes useful and necessary, and it can best be done through brokers who make a business of dealing in that line. A law intended to reach fraud only must necessarily, from the generality of its terms, strike at legitimate trade, if it attempts to go beyond the regulation of the corporation itself. For these reasons, your Committee does not now present any Act more extensive in its provisions than the law above referred to, except in one particular.

In one respect the provisions of that law may be supplemented for the public good. The law prohibits the doing of business by corporations which offer securities for sale unless both the method of doing the business

and the contract proposed to be made with the customer have been approved by the Banking Commissioner. This approval should also be required in the case of individuals who make a business of investing the money of others. It is especially aimed at such concerns as propose to use their customers' money in speculating on the stock exchange or in contracts for the future delivery of commodities. Accordingly, the draft of an Act is presented which will be found herein at page 36.

AN ACT TO REGULATE THE BUSINESS OF RECEIVING FOR INVESTMENT, OR OF INVESTING THE MONEY OF OTHERS.

SECT. 1. Be it enacted, etc., that no person or persons, firm or corporation in this State shall engage in the business of receiving for investment, or of investing, the money of others without having first complied with the provision of this Act. Every such person, persons, firm or corporation shall file, under oath, with the Banking Commissioner, a statement in writing, giving in full detail the plan upon which it is proposed to transact business, and a copy of all contracts, bonds or other instruments which it is proposed to make with or sell to customers. At the time of filing such statement a fee of ten dollars shall be paid.

SECT. 2. If, in the opinion of the Banking Commissioner, the proposed plan of business and proposed contract contain and provide for a fair, just and equitable plan for the transaction of business, the Banking Commissioner shall issue to such person or persons, firm or corporation, a statement that he, they or it have complied with the provisions of this Act, and that they are licensed to engage in the business of receiving money for investment, but such statement shall also recite in bold type that the Banking Commissioner in no wise recommends the person, persons, firm or corporation so licensed. For such license a further fee of ten dollars shall be paid.

SECT. 3. If any person, either on his own behalf or as the officer, agent or employee of another person, persons, firm or corporation, shall engage in the business of receiving for investment or of investing the money of others without a license therefor having first been obtained, or shall transact business upon any other plan, or shall make with or sell to customers

any other contracts, bonds or other instruments than those set forth in the statement filed with the Banking Commissioner, without an additional statement thereof under oath having been filed and a license with respect thereto having been received, or shall attempt to do so, he shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than five thousand dollars, or imprisonment for not more than one year, either or both, in the discretion of the Court.

AN ACT FOR THE REGULATION OF CERTAIN CORPORATIONS, JOINT STOCK COMPANIES, LIMITED PARTNERSHIPS, PARTNERSHIP ASSOCIATIONS AND ASSOCIATIONS HAVING ANY OF THE POWERS OR PRIVILEGES OF CORPORATIONS NOT POSSESSED BY INDIVIDUALS OR PARTNERSHIPS ORGANIZED UNDER THE LAWS OF THIS OR ANY OTHER STATE, TERRITORY OR GOVERNMENT WHICH SHALL SELL OR NEGOTIATE FOR THE SALE OF CERTAIN STOCKS, BONDS OR OTHER SECURITIES, AND RELATING TO THE POWERS AND DUTIES OF THE COMMISSIONER OF BANKING WITH RESPECT THERETO, AND PUNISHING THE VIOLATION THEREOF.

SECT. 1. All corporations, joint stock companies, limited partnerships, partnership associations and all associations having any of the powers or privileges of corporations not possessed by individuals or partnerships (other than State and national banks, trust companies, building and loan associations and corporations not organized for profit), organized or which shall be organized in this Commonwealth, whether incorporated or unincorporated, which shall sell or negotiate for the sale of any stocks, bonds or other securities of any kind or character other than bonds of the United States or of this Commonwealth, or of some municipal corporation of this Commonwealth, and bonds secured by mortgages on real estate located in this Commonwealth, to any person or persons in this Commonwealth other than those specifically exempted herein, shall be known for the purpose of this Act as a domestic investment company. Every such investment company organized in any other State, Territory or Government, or organized under the laws of any other State, Territory or Government, shall be known for the purpose of this Act as a foreign investment company.

SECT. 2. Before offering or attempting to sell any stocks, bonds or other securities of any kind or character other than those specifically exempted in Section 1, of this Act, to any person or persons, or transacting any business whatever in this

Commonwealth, excepting that of preparing the documents hereinafter required, every such investment company, domestic or foreign, shall file in the office of the Commissioner of Banking of this Commonwealth, together with a filing fee of ten dollars, the following documents, to wit:

A statement showing in full detail the plan upon which it proposes to transact business.

A copy of all contracts, bonds or other instruments which it proposes to make with or sell to its contributors or customers.

A statement which shall show the name and location of the investment company, and an itemized account of its actual financial condition, and the amount of its property and liabilities, and such other information touching its affairs as said Commissioner of Banking may require.

A copy of its articles of incorporation or association, letters patent, charter, constitution and by-laws, with all amendments as then existing, and all other papers pertaining to its organization.

If it shall be an investment company organized under the laws of any other State, Territory or Government, incorporated or unincorporated, it shall also file with the said Commissioner of Banking a copy of the laws of such State, Territory or Government, under which it exists or is incorporated, and also a copy of its charter, articles of incorporation, constitution and by-laws and all amendments thereof which have been made, and all other papers pertaining to its organization.

SECT. 3. All of the above described papers shall be verified by the oath of a duly authorized officer of such investment company. All such papers, however, as are recorded or are on file in any public office shall be further certified to by the officer of whose records or archives they form a part, as being correct copies of such records or archives.

SECT. 4. Every foreign investment company shall also comply with the law then in force requiring the registration of an agent on whom service of process may be made by foreign corporations doing business in this Commonwealth.

SECT. 5. It shall be the duty of the Commissioner of Banking to examine the statements and documents so filed, and if said Commissioner of Banking shall deem it advisable he shall make or have made a detailed examination of such investment company's affairs, which examination shall be at the expense of such investment company, as hereinafter provided; and if he finds that such investment company is solvent, that its articles of incorporation or association, its constitution and by-laws, its

proposed plan of business and proposed contract contain and provide for a fair, just and equitable plan for the transaction of business, and, in his judgment, promise a fair return of the stocks, bonds and other securities by it offered for sale, the Commissioner of Banking shall issue to such investment company a statement reciting that such company has complied with the provisions of this Act, that detailed information in regard to the company and its securities is on file in the office of the Commissioner of Banking for public inspection and information, that such investment company is permitted to do business in this Commonwealth; and such statement shall also recite in bold type that the Commissioner of Banking in no wise recommends the securities to be offered for sale by such company. At the time of issuing such statement the investment company shall pay to the Commissioner of Banking a further fee of ten dollars. But if said Commissioner of Banking finds that such articles of incorporation or association, charter, constitution and by-laws, plan of business or proposed contract contained any provision that is unfair, unjust, inequitable or oppressive to any class of contributors or customers, or if he decides from his examination of its affairs that said investment company is not solvent and does not intend to do a fair and honest business, and, in his judgment, does not promise a fair return on the stocks, bonds or other securities by it offered for sale, then he shall notify such investment company in writing of his findings and it shall be unlawful for such company to do any further business in this Commonwealth until it shall so change its constitution and by-laws, articles of incorporation or association, its proposed plan of business and proposed contract and its general financial condition in such manner as to satisfy the Commissioner of Banking that it is solvent, and that its articles of incorporation or association, its constitution and by-laws, its proposed plan of business and proposed contract do provide for a fair, just and equitable plan for the transaction of business, and that it does, in his judgment, promise a fair return on the stocks, bonds and other securities by it offered for sale; provided, that all expenses paid or incurred and all fees or charges received or collected for any examination made under the provisions of this section of this Act shall be reported and recorded in detail by the Commissioner of Banking.

SECT. 6. It shall not be lawful for any investment company, either as principal or agent, to transact any business, in form or character similar to that set forth in Section 1 of this Act, except as is provided in Section 2 of this Act, until it shall

have filed the papers and documents above provided for. No amendment of the charter, articles of incorporation, constitution and by-laws of any such investment company shall become operative until a copy of the same has been filed with the Commissioner of Banking as provided in regard to the original filing of charters, articles of incorporation, constitution and by-laws; nor shall it be lawful for any such investment company to transact business on any other plan than that set forth in the statement required to be filed by Section 2 of this Act, or to make any contracts other than that shown in the copy of the proposed contract required to be filed by Section 2 of this Act, until a written statement showing in full detail the proposed new plan of transacting business, and a copy of the proposed new contract shall have been filed with the Commissioner of Banking in like manner as provided in regard to the original plan of business and proposed contract, and the consent of the Commissioner of Banking obtained as to making such proposed new plan of transacting business and proposed new contract.

SECT. 7. Any investment company may appoint one or more agents, but no such agent shall do any business for said investment company in this State until he shall first register with the Commissioner of Banking as agent for such investment company, and for each of such registrations there shall be paid to the Commissioner of Banking the sum of one dollar. Such registration shall entitle such agent to represent such investment company as its agent until the first day of March following, unless said authority is sooner revoked by the Commissioner of Banking; and such authority shall be subject to revocation at any time by the Commissioner of Banking for cause appearing to him sufficient, after notice and hearing.

SECT. 8. Every investment company, domestic or foreign, shall file, at the close of business on December 31st and June 30th of each year, and at such other times as required by the Commissioner of Banking, a statement verified by the oath of a principal executive officer duly authorized thereto, setting forth in such form as may be prescribed by the said Commissioner of Banking, its financial condition and the amount of its assets and liabilities, and furnishing such other information concerning its affairs as said Commissioner may require. Each regular statement of December 31st and June 30th shall be accompanied by a filing fee of two dollars and fifty cents. An investment company failing to file its report at the close of business December 31st or June 30th of each year within ten days of that date, or failing to file any other or special report herein

required within thirty days after receipt of request or requisition therefor, shall forfeit its right to do business in this Commonwealth.

SECT. 9. The general accounts of every investment company, domestic or foreign, doing business in this Commonwealth, shall be kept by double entry, and such company shall at least once in each month make a trial balance of such accounts, which shall be recorded in a book provided for that purpose; such trial balance and all other books and accounts of such company shall at all times during business hours, except on Sundays and legal holidays, be open to the inspection of stockholders and investors in said company or investors in the stocks, bonds or other securities by it offered for sale, and to the Commissioner of Banking and his deputies.

SECT. 10. The Commissioner of Banking shall have general supervision and control, for the purposes of this Act, over any and all investment companies, domestic or foreign, doing business in this Commonwealth, and all such investment companies shall be subject to inspection or examination by the Commissioner of Banking or his duly authorized deputies, or any qualified examiner of the Department of the Commissioner of Banking, when such examiner is authorized in writing under the official seal of said Commissioner or his deputies, to make such examination of any such companies. And it shall be the duty of the Commissioner of Banking or his deputy to so inspect and examine each of the said companies as often as he shall deem proper, and whenever he shall deem it necessary or proper he shall assign a qualified examiner or examiners to make such examination, who shall have power to make a thorough examination into all the business and affairs of the said investment company or companies, to examine any of the officers or agents or employees thereof, or any officer or employee of any corporation or member of any firm or any individual in possession of any assets thereof, under oath or otherwise, and to examine any or all of the books, papers and records of the said investment companies, and shall make or cause to be made, in the manner aforesaid, a full and detailed report of the condition of said investment company; and such investment company shall pay a fee for each of such examinations of not to exceed ten dollars for each day or fraction thereof, plus the actual traveling and hotel expenses of said Commissioner of Banking or deputy, or official examiner, while he is absent from the office of the Commissioner of Banking for the purpose of making such examination, and the failure or refusal of any investment company to pay such fees, upon

the demand of the Commissioner of Banking or his deputy, while making such examination, shall work a forfeiture of its right to do business in this Commonwealth.

SECT. 11. Whenever it shall appear to the Commissioner of Banking that the assets of any investment company doing business in this Commonwealth are impaired to the extent that such assets do not equal its liabilities, or that it is conducting its business in an unsafe, inequitable or unauthorized manner, or is jeopardizing the interest of its stockholders or investors in stocks, bonds or other securities by it offered for sale, or whenever any investment company shall fail or refuse to file any papers, statements or documents required by this Act, without giving satisfactory reasons therefor, said Commissioner of Banking shall at once communicate such facts to the Attorney-General, who shall thereupon apply in the name of the Commonwealth to the Court of Common Pleas of Dauphin County for the appointment of a receiver to take charge of and wind up the business of such investment company, and if such fact or facts be made to appear it shall be sufficient evidence to authorize the appointment of a receiver and the making of such orders and decrees in such cases as equity may require.

SECT. 12. Any person who shall knowingly or willfully subscribe to or make or cause to be made any false statements or false entry in any book of such investment company, or exhibit any false paper with the intention of deceiving any person authorized to examine into the affairs of such investment company, or shall make or publish any false statements of the financial condition of such investment company, or the stocks, bonds or other securities by it offered for sale, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred dollars nor more than ten thousand dollars, and shall be imprisoned for not less than one year nor more than ten years.

SECT. 13. Any person or persons, agent or agents, who shall sell or attempt to sell the stock, bonds or other securities of any investment company, domestic or foreign, or the stock, bonds or other securities by it offered for sale, which have not complied with the provisions of this Act, or any investment company, domestic or foreign, which shall do any business or offer, or attempt to do any business, except as provided in Section 2 of this act, which shall not have complied with the provisions of this Act, or any agent or agents who shall do or attempt to do any business for any investment company, domestic or foreign, in this Commonwealth, which agent is not at the

time duly registered and has not fully complied with the provisions of this Act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each offence not less than one hundred dollars nor more than five thousand dollars, or by imprisonment for not more than ninety days, or both such fine and imprisonment, at the discretion of the Court.

SECT. 14. All fees herein provided shall be collected by the Commissioner of Banking, and by him paid into the State Treasury.

SECT. 15. The Commissioner of Banking is hereby authorized to appoint such clerks and deputies as may be necessary to carry the provisions of this Act into effect.

SECT. 16. All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed.

FOREIGN CORPORATIONS.

The Report to the Legislature of 1911, while postponing the revision of the General Corporation Laws of the Commonwealth, presented a fully developed scheme for regulating foreign corporations doing business in Pennsylvania. The draft statute was the result of careful study of the laws of other States and the constitutional validity of many more or less popular features of those laws. It adapted to our use the most valuable parts and contained some novel provisions.

The Legislature of 1911, however, did not see fit to adopt this Act or any part of it. Aside from the Acts hereinafter referred to, treating in a partial way of the ownership of real estate by foreign corporations, the only action taken by the Legislature was the passage of the Act of June 8, 1911, P. L. 710, which regulated the doing of business by foreign corporations and prescribed the mode of registration of an agent for service of process. This Act made the Secretary of the Commonwealth the agent for all foreign corporations for service of process, and required such corporations to file a power of attorney appointing that official their agent for this purpose. This Act, however, does not meet the evils pointed out by your Committee in its previous report, and fully set forth in the notes herein, at page 65 and following.

The difficulty with the previously existing law was that its severe penalties were ineffectual in practice to compel registration by a very large number of foreign corporations doing business in this Commonwealth. The penalty was not actually enforced. Especially with the smaller companies, their existence was not brought to the attention of the Commonwealth's officials, who were already overburdened with work. As a result, many foreign corporations came into this Common-

wealth and did business with our citizens, and when it became necessary to bring suit against them, it was found there was no one here upon whom service of process could be made. In other words, while the Act sought to compel the appointment of an agent, there was no automatic process by which some person easily reached was to act as the agent in cases where there was no designation.

Following the practice in other States, the Act recommended by your Committee gives the corporation the liberty of appointing its own agent, or agents, at a designated place or places, but provides that if the corporation should do business without appointing such an agent, the Secretary of the Commonwealth should thereby become the agent of the corporation for service of process. The validity of such a provision is fully discussed and justified in these notes.

It is also provided in this draft Act that in case of the service on the Secretary of the Commonwealth, further actual service should be had outside of the Commonwealth. The purpose of this was to satisfy the technical requirements of the law by service of process within the Commonwealth upon some one who should be by law created the agent of the corporation, so that the corporation was "brought into court," and also to certify the demands of natural justice, by giving actual notice outside of the Commonwealth. The corporation will then have a real opportunity to defend, and need not suffer judgment by default, as might happen if service of process was made only on the State official, who might have no means of conveying actual notice of such service to the corporation itself.

The Act of 1911 seems to your Committee to be wrong in principle, because it forces upon the foreign corporation in every instance what is really a fictitious agency. A corporation should have the choice of appointing its own agent in all cases where it genuinely tries to comply

with our laws, and should only be compelled to accept an agent whose acts cannot be controlled, in case it defies our laws. The Act of 1911 requires the Secretary of the Commonwealth to mail to the corporation, at a designated address, the process thus served, and in the final result, what the Act of 1911 provides for is service of process upon a foreign corporation by mail notice only, although it is doing its best to comply with our laws. Such notice, except in case of necessity, is opposed to the law everywhere, which requires service of process to be actual, instead of presumptive, and to be made by a responsible officer.

The Act of 1911 also failed to adopt other features of the Act drafted by your Committee, which the Committee then thought and still believes to be valuable. There is no provision in the Act for the filing by a foreign corporation of its charter in this Commonwealth, so that our citizens may know the foundation of its organization and powers. The Act (1911) did not regulate the burden of proof in actions at law with respect to compliance by the foreign corporations with our laws. The law should be that compliance should be taken to be admitted unless put in issue specially. This is analogous to the provision by which the existence of a corporation is taken to be admitted unless specially put in issue, as made by the Act of June 24, 1885, P. L. 149, and unnecessarily re-enacted by the Act of June 9, 1911, P. L. 723.

As your Committee believes that its draft Act is a better regulation of foreign corporations than the Act of 1911, so far as the latter goes, and that it contains other valuable features which should be the law, that draft is again presented to the Legislature with the recommendation that it be passed. It is hoped that the Act will solve some of the most important present problems in dealing with corporations. The same ground is not covered by the proposed Act herewith submitted with regard to private business corporations. Full explana-

tory notes are added, giving the source of the particular provisions, the authorities for their validity, and the reasons, practical and legal, why they are necessary. The Act and notes will be found at page 54.

A brief statement of the most important provisions in addition to those already referred to in commenting on the Act of 1911 is as follows:

Authority to foreign corporations to hold real estate in Pennsylvania upon complying with our law. This followed requests from all sources which have been repeated in the last two years. Pennsylvania has been almost alone in the situation of refusing the right to hold real estate to corporations who comply with our laws regulating them. Besides Pennsylvania only Nebraska makes a rule of prohibiting the holding of real estate by foreign corporations. In 30 States the rule is otherwise. (See notes at page 71.)

No good reason for this policy has been advanced. It is probably a relic of the necessities of feudal duties, which prevented all aliens from owning real estate. We have got rid of this as to individuals, even in case of dower.

The most curious feature of the present Pennsylvania law is the numerous exceptions which have been created by statute from time to time with respect to special classes of foreign corporations, which are enumerated in the notes at page 71. These classes bear little or no relation to each other, and have no characteristics which would justify the holding of real estate as distinguished from other kinds not so included.

In addition, the Legislature of 1911 added to the exceptions by the Act of June 23, 1911, P. L. 1115, extending the privilege to a curious variety of corporations having to do, in some way or another, with electricity; and the Act of April 20, 1911, P. L. 68, extending the privilege to foreign corporations formed for the purpose of manufacturing garden implements and dealing in seeds, etc.

Only the Commonwealth can take advantage of violation of the law by bringing proceedings to escheat such lands, and in practice such proceedings are never instituted. From time to time such corporations take title to real estate and then convey to citizens. This has caused the passage of various validating Acts, forgiving all such past offenses (of which a list is given in the notes, at page 71), and the Legislature of 1911 added to the list by the Act of March 7, 1911, P. L. 13, repeated in the same words by the Act of June 15, 1911, P. L. 955, and substantially repeated by the Act of June 23, 1911, P. L. 1114.

What good reason can there be for continuing a policy of which no advantage is ever taken, as to violations of which periodical pardons, of an omnibus character, are issued by the Legislature, and upon which inroads are continually made by each successive Legislature at the request of special interests which desire exemption from time to time, thus giving rise to one of the most obnoxious forms of special legislation? What reason of policy there is for permitting a corporation which manufactures velvet, ice or pyroligneous acid to own real estate and prohibiting such ownership by manufacturing corporations or other business corporations generally, if they happen to be chartered by another State, it is impossible to conceive. These corporations are permitted to do business with us on the same terms as our own corporations. They are permitted to hold all sorts of personal property. They have established themselves among us to stay, and they do, in fact, in a great many cases, own real estate under the cover of trusteeship or leases for 99 years, or real estate holding companies. It is a reproach to our law that these companies are forced to accomplish by subterfuge in this way what they should have the right to do openly.

In one respect, however, the Act of 1911 did follow the lines recommended by your Committee. This is the

provision in Section 4, that contracts entered into by a foreign corporation which shall do business in the Commonwealth without complying with the law, shall be validated if, before commencing an action they shall comply with the law and pay a license fee or fine of \$250. The previous state of the law, which invalidated contracts so made and gave no opportunity for repentance, failed to compel foreign corporations to register, and failed to put money in our Treasury, but did permit gross injustice to be done by individuals who pleaded such non-compliance to escape from paying honest debts. A full discussion will be found in the notes, at page 67.

In the opinion of your Committee, however, the Act of 1911 did not go far enough. It should have provided—as the Act drafted by your Committee does provide—that the corporation should not only register and pay a fine, but should also pay the bonus and taxes which the Commonwealth had not yet got. The Act of 1911 merely requires a compliance with its provisions but not the payment of bonus and taxes.

And if the policy thus inaugurated is a wise one, there is no reason why it should not be extended to past Acts as well. The invalidation of contracts was not part of the penalty prescribed by the original Foreign Corporation Act of 1874, or by any other statute. It was a result of construction by the courts. It has not been a part of our law upon which our citizens relied in dealing with foreign corporations, or if any have so relied on it they have been men of small conscience designing to take advantage of a loophole in the law. The policy of validating such contracts with respect to past matters was recognized by the Legislature of 1907, (P. L. 205). The same policy is indicated by the Act of May 11, 1901, P. L. 172. It is anomalous that there should be a period extending from 1907 to 1911 as to which the law permits such an evasion of just obligations, while as to the period before and the period after that time the law is other-

wise, although the general policy of requiring the registration of foreign corporations and forbidding actions on contracts until the corporations are registered, remains the same for all periods. A further validating Act has therefore been drafted, and will be found at page 74.

The Act drafted by your Committee includes a provision by which foreign corporations which have their principal place of business in this Commonwealth are in effect prohibited from resorting to the Federal Courts. A corporation cannot be denied its remedy in the Federal Courts, but it can be refused the right to do business for the future if in any particular case it does resort to the Federal Courts. The argument is—and it is in line with the practice elsewhere—that a corporation which is really doing business here and the foreign birth of which is but an accident, should confine its litigation to the local courts as though it was in theory, as it is in fact, one of our own citizens.

The same considerations apply to the regulation by the courts of the internal affairs of foreign corporations owned by our citizens and having their business here. As pointed out in the notes on page 72, our courts have held, (in conformity with decisions elsewhere), that they have no authority over these concerns. A step in the direction which the draft Act proposes to take is found in the recent case of *Maehen vs. Maehen*, 237 Pa. 212, holding that our courts might compel directors of a foreign corporation which kept its books here to exhibit them to stockholders.

AN ACT TO REGULATE FOREIGN CORPORATIONS, THAT IS TO SAY, CORPORATIONS, JOINT STOCK COMPANIES, PARTNERSHIPS LIMITED, PARTNERSHIP ASSOCIATIONS, AND ALL ASSOCIATIONS HAVING ANY OF THE POWERS OR PRIVILEGES OF CORPORATIONS, NOT POSSESSED BY INDIVIDUALS OR PARTNERSHIPS, ORGANIZED UNDER ANY LAWS OTHER THAN THOSE OF THIS COMMONWEALTH, DOING BUSINESS IN THIS COMMONWEALTH.

SECT. 1. Be it enacted, etc., that any foreign corporations may own or convey real estate within this Commonwealth as

fully as any corporation might which was organized under the laws of this Commonwealth for a similar purpose, provided that such corporation at the time of acquiring title to the real estate shall have complied fully with the laws of this Commonwealth relating to the doing of business in this Commonwealth by foreign corporations; and provided further, that nothing in this Act shall be construed to exempt said real estate and such corporations from taxation as otherwise required by law.

SECT. 2. The non-compliance by a foreign corporation with the laws of this Commonwealth may only be taken advantage of with respect to real estate by the Commonwealth itself, and before the same shall have come into the ownership of a purchaser for value in good faith.

SECT. 3. The title to any real estate in this Commonwealth now or heretofore owned by or in trust for any such foreign corporation is hereby confirmed with the same effect as if the said real estate had been purchased, held or owned under the provisions of this Act, upon the said corporation complying with the laws of this Commonwealth relating to the doing of business by foreign corporations, and paying the bonus on its capital stock required by law, and all State taxes for each year that it shall have done business in this Commonwealth, together with such interest and penalties thereon as shall have been settled against it by the officers of this Commonwealth.

SECT. 4. The term "foreign corporation," as used in this Act, shall be construed to mean all corporations, joint stock companies, partnerships limited, partnership associations, and all associations having any of the powers or privileges of corporations, not possessed by individuals or partnerships, organized under any laws other than those of this Commonwealth, and the provisions of this Act shall apply to such corporations heretofore or now or hereafter doing business in this Commonwealth.

NOTE.

This draft Act is composed of the sections of the draft Foreign Corporations Act, put together by themselves, in order that the Legislature may conveniently, if it so desires, enact this provision of the law without the rest.

A difficulty which foreign corporations have to contend with in this Commonwealth is that their fiscal year does not correspond with the year for which reports to our officers for purposes of taxation are required to be made

up. This becomes more aggravated when the corporation does business in a great number of States, as each State may, and often does, have a different tax year. A like difficulty exists as to the matters required to be reported, which must be cast in different forms in the different States. As to the last matter, it is not practicable for any one State to lead in the movement for uniformity, and the reform must come from such a body as the Commissioners on Uniform State Laws. But with respect to the fiscal year, a basis for reform already exists. The calendar year is so natural a division that it must be the basis for any uniformity which may be achieved, and the fact that the Federal Corporation Law prescribed the calendar year as the fiscal year makes it imperative that all corporations should make at least one report upon the basis of the calendar year, and tends strongly to compel this as the uniform year for all corporations.

During the past four years many complaints were made to your Committee of the lack of uniformity in the period for which reports are required of domestic corporations. It was suggested that some corporations, (as department stores), do not find the holidays a convenient time for stock taking, and that each corporation should have the privilege of making its own fiscal year its tax year. This would be confusing and burdensome to the authorities and might lead to evasion. Certainty is as desirable as uniformity. For the benefit of both foreign and domestic companies, therefore, your Committee recommends the adoption of the calendar year, and presents the draft of an Act to accomplish this. To it are added notes showing the present lack of uniformity, and the whole will be found at page 76.

The attention of your Committee was called to evils growing out of the practice of foreign corporations in issuing securities "tax free." Cases have arisen where securities were issued by foreign corporations containing pro-

visions that guaranteed the payment of interest free of Pennsylvania taxes. This provision has sometimes been so worded as to compel the corporation to pay only such taxes as it is required by Pennsylvania to deduct from the interest paid to the holder of the security and to remit to the Commonwealth. As foreign corporations are not required by law to deduct or remit any such interest, the corporations did not in fact pay the tax, and the holder was compelled to pay it himself. This was contrary to his expectation derived from a hasty reading of the language or from misleading advertisements. There are cases existing in which the foreign corporation undertook to pay all taxes assessed by the State of Pennsylvania. In such case also as the foreign corporation was not compellable to make any loan tax report to this Commonwealth, the holder of the security was compelled to return the security to the tax officers, and to pay the tax himself, and then to sue the corporation for the money so paid. In either case the result was irritation on the part of the security holder, and often complaint against our taxing officers that they did not collect the tax from the corporation itself. The security holder did not realize that the agreement of the corporation could not change the method by which we collect our taxes. The corporation took advantage of that method, and its knowledge that it would not be required to make a return to the Commonwealth or to pay the tax direct thereto to make misleading representations. What remedy is to be applied as long as the present system exists your Committee is at a loss to suggest. Doubtless the remedy most often applied in practice is that the security holder, either through ignorance or easy conscience, does not return the security for taxation, relying on the representation that it is tax free in Pennsylvania. The solution will probably be found when a more efficient method is found of taxing foreign securities held by our citizens, and of compelling a more ac-

curate return by domestic corporations of the securities held by our citizens, as distinguished from those held by non-residents, which are not taxable. A step in the latter direction is proposed elsewhere in this report (page 212) in discussing the collection of revenue. Attention is also directed to the proposal found at page 208, to radically alter the principle by which loans of domestic corporations are taxed, so as to include all such loans. This, however, will not affect foreign corporations.

AN ACT TO REGULATE FOREIGN CORPORATIONS, THAT IS TO SAY, CORPORATIONS, JOINT STOCK COMPANIES, PARTNERSHIPS LIMITED, PARTNERSHIP ASSOCIATIONS AND ALL ASSOCIATIONS HAVING ANY OF THE POWERS OR PRIVILEGES OF CORPORATIONS NOT POSSESSED BY INDIVIDUALS OR PARTNERSHIPS ORGANIZED UNDER ANY LAWS OTHER THAN THOSE OF THIS COMMONWEALTH, DOING BUSINESS IN THIS COMMONWEALTH.

SECT. 1. Be it enacted, etc. A foreign corporation shall not do any business in this Commonwealth until said corporation shall have established an office and appointed an agent for the transaction of its business therein. (1.)

SECT. 2. It shall not be lawful for any such corporation to do any business in this Commonwealth until it shall file in the office of the Secretary of the Commonwealth, and in the office of the Recorder of Deeds for the County in which its principal office is located, a copy of its articles of incorporation or of its charter or of the statute or legislative, executive or governmental acts or other instrument of authority by which it was created and all alterations and amendments thereof, (2) duly certified by the authorized officer of the government under the laws of which such corporation was organized, (3) and in the office of the Secretary of the Commonwealth a statement under the seal of said corporation and signed by the president attested by the secretary thereof, showing the title and object of said corporation, the location of its principal office for the transaction of business in this Commonwealth, and the name or names of its authorized agent or agents therein. (4) A fee of one hundred dollars (\$100.00) for filing such statement shall be paid to the Secretary of the Commonwealth for the use of the State.

SECT. 3. Any person or persons, agent, officer or employee of any such foreign corporation who shall transact any business

within this Commonwealth for any such foreign corporation without having complied with the provisions of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment not exceeding thirty days and by a fine not exceeding one thousand dollars (\$1,000), or either, at the discretion of the Court trying the same; (5) but the said person or persons, agent, officer or employee, shall not be personally liable for any acts done in the transaction of business within this Commonwealth for such foreign corporation, except in the case of insurance companies. (6.)

SECT. 4. If any foreign corporation shall do any business in this Commonwealth without having complied with the laws of this Commonwealth relating to the doing of business in this Commonwealth by foreign corporations (7) all contracts relating to such business made or to be performed within this Commonwealth shall be void (8) and no action at law or in equity for any cause of action arising out of such doing of business shall be maintained by it in the Courts of this State, (9) but if any foreign corporation, prior to the commencement of an action on any contract made heretofore or hereafter without having so complied, or prior to the commencement of any other action, shall comply with said laws and shall also pay the bonus on its capital stock required by law and all State taxes for each year that it shall have done business in this Commonwealth, together with such interest and penalties thereon as shall have been settled against it by the officers of this Commonwealth, such contracts made prior thereto shall be validated and such foreign corporation may maintain action thereon and all other actions both at law and in equity in the Courts of this Commonwealth. (10.)

SECT. 5. The doing of business in this Commonwealth by any foreign corporation shall be taken to be its irrevocable assent to be sued in the Courts of this State upon any liability arising out of acts done in the course of such business, irrespective of whether such corporation be doing business in this Commonwealth at the time suit is brought. (11.)

SECT. 6. If all the agents designated by any foreign corporation shall die or resign or be otherwise disqualified to act as the agents of the corporation under this Act, or if their authority to act as such be revoked, and such corporation shall not within thirty days thereafter designate a new agent or agents, (12) or if such corporation shall cease to maintain as one of its offices the place designated as its principal office, and shall not designate another office in place thereof, (13)

or if any foreign corporation shall do any business within this Commonwealth without the provisions of this Act being complied with, (14) the said corporation shall be taken to have consented that the Secretary of the Commonwealth or his Deputy shall be its agent for the service of process, and that service upon him or his Deputy shall be as effectual as though served upon an agent specially designated by such corporation under this Act, (15) provided, that in case of service upon the Secretary of the Commonwealth or his Deputy such process shall also be served upon such foreign corporation, or upon the officers thereof wherever it or they may be found, whether in this Commonwealth or not, in the same manner as though found in this Commonwealth. (16.) Such service may be made by any competent person and proof thereof made by his affidavit. Such service shall be made twenty days before any judgment in such suit shall be rendered. (17.)

SECT. 7. Any foreign corporation may own or convey real estate within this Commonwealth as fully as any corporation might which was organized under the laws of this Commonwealth for a similar purpose (18), provided, that such corporations, at the time of acquiring title to the real estate, shall have complied fully with the laws of this Commonwealth relating to the doing of business in this Commonwealth by foreign corporations, and provided further, that nothing in this Act shall be construed to exempt said real estate and such corporation from taxation as otherwise required by law.

SECT. 8. The non-compliance by a foreign corporation with the laws of this Commonwealth may only be taken advantage of with respect to real estate by the Commonwealth itself, (19) and before the same shall have come into the ownership of a purchaser for value in good faith. (20.)

SECT. 9. The title to any real estate in this Commonwealth now or heretofore held by, or in trust for, any such foreign corporation, is hereby confirmed to the same effect as if the said real estate had been purchased, held or owned under the provisions of this Act, upon the said corporation complying with the laws of this Commonwealth relating to the doing of business by foreign corporations and paying the bonus on its capital stock required by law and all State taxes for each year that it shall have done business in this Commonwealth, together with such interest and penalties thereon as shall have been settled against it by the officers of this Commonwealth. (21.)

SECT. 10. In all actions the compliance by a foreign corporation with the laws of this Commonwealth shall be taken as

admitted unless the party asserting non-compliance shall put the same in issue by special plea of appropriate character; and when so put in issue the burden of proving compliance shall be on the party asserting the same, and the certificate of the proper public officers as to the facts connected with such compliance shall be proof thereof. (22.)

SECT. 11. The Courts of this Commonwealth, both at law and in equity, shall have jurisdiction over all matters concerning the internal management of any foreign corporation doing business in this Commonwealth, the principal office of which for the doing of its business with the public shall be in this Commonwealth, whenever it shall appear that the judgment or decree of the Court can be enforced in this Commonwealth. (23.)

SECT. 12. If any foreign corporation which has its principal office for the doing of its business with the public within this Commonwealth shall, without the consent of record of the adverse parties, remove to a Federal Court any action pending against it in any Court of this Commonwealth, excepting in such cases as a corporation created under the laws of this Commonwealth may do so, or shall without such consent begin an action against a citizen of this Commonwealth in any Federal Court, or shall, upon the request of the adverse party, refuse to discontinue the same, such action on the part of the corporation shall forfeit its right to do any business in this Commonwealth, and it shall thereafter be deemed not to have complied with the laws of this Commonwealth. (24.) Such forfeiture shall be declared by proceedings in the nature of a writ of quo warranto on the suggestion of the Attorney General. (25.)

SECT. 13. The term "foreign corporation" as used in this Act shall be construed to mean all corporations, joint stock companies, partnerships limited, partnership associations and all associations having any of the powers or privileges of corporations not possessed by individuals or partnerships. (26) organized under any laws other than those of this Commonwealth.

SECT. 14. The provisions of this Act shall apply to foreign corporations of all kinds doing business within this Commonwealth, including those foreign corporations now doing business in this Commonwealth, which shall comply with the provisions of this Act within sixty days of its passage, (27) and is intended to supply a uniform system as to them. All Acts or parts of Acts, general and special, and Acts applying to particular class

or classes of foreign corporations and inconsistent with the provisions of this Act be and the same are hereby repealed. (28.)

SECT. 15. The following Acts and parts of Acts be and the same are hereby repealed as to all matters arising after the date of the approval of this Act. (29.) (30.)

So much of Section 3 of an Act entitled "An Act to facilitate the collection of debts against corporations," approved March 21, 1849, (P. L. 216), as reads as follows:

"And in the commencement of any suit or action against any such foreign corporation, process may be served upon any officer, agent or engineer of such corporation, either personally or by copy, or by leaving a certified copy at the office, depot or usual place of business of said corporation, and such service shall be good and valid in law to all intents and purposes."

Section 6 of an Act entitled "An Act relating to County Prisons, to the Foster Home Association, and Cawanesque Plank Road Company, to apportion the rent of wharves and docks in the port of Philadelphia, and relative to the service of process on foreign insurance companies and other corporations." Approved April 8, 1851. (P. L. 353.)

An Act entitled "An Act relative to insurance companies." Approved April 24, 1857. (P. L. 318.)

An Act entitled "A supplement to an Act in relation to insurance companies, approved April twenty-seventh, one thousand eight hundred and fifty-seven." Approved April 8, 1868. (P. L. 70.)

Section 13 of an Act entitled "An Act to establish an Insurance Department." Approved April 4, 1873. (P. L. 20.)

An Act entitled "An Act to prohibit foreign corporations from doing business in Pennsylvania, without having known places of business and authorized agents." Approved April 22, 1874. (P. L. 108.)

An Act entitled "An Act amending an Act, entitled 'An Act to establish an insurance department,' approved the fourth day of April, Anno Domini one thousand eight hundred and seventy-three." Approved June 20, 1883. (P. L. 134.)

So much of Section 7 of an Act entitled "An Act to further provide for the incorporation and regulation of mutual assessment corporations for the insurance of lives, supplementary to an Act, approved May first, Anno Domini one thousand eight

hundred and seventy-six, entitled 'A supplement to Act to establish an insurance department,' approved June 5, 1883 (P. L. 80), as reads as follows: "And it shall legally designate a person or agent residing in this State to receive service of process for said company, or in default of such designation, service of process may be made upon the Insurance Commissioner of this State, who shall be deemed its attorney for that purpose, and he shall immediately notify any corporation or association thus served."

Sections 1 and 2 of an Act entitled "An Act to authorize certain corporations, incorporated and existing under the laws of any other State of the United States, to purchase certain real estate at judicial sales, and to hold and convey the same under certain conditions." Approved May 23, 1887. (P. L. 176.)

An Act entitled "An Act to amend an Act, entitled 'An Act relative to insurance companies, approved April twenty-fourth, Anno Domini one thousand eight hundred and fifty-seven, to apply the provisions of said Act to live stock insurance companies and to give jurisdiction to aldermen, justices of the peace and magistrates." Approved May 13, 1889. (P. L. 198.)

An Act entitled "An Act to provide for the person upon whom service shall be had by legal process in the case of fraternal, beneficial and relief societies whose status is defined by the Act of Assembly, entitled 'An Act defining fraternal beneficial and relief societies and their status, authorizing them to create subordinate lodges and to pay benefits, upon the sickness, disability or death of their members, from funds collected by dues and assessments therein, providing for their registration in the office of the Insurance Commissioner, and requiring that they shall make annual reports to him, and exempting them from taxation and from the supervision of the Insurance Commissioner,' approved the sixth day of April, Anno Domini one thousand eight hundred and ninety-three." Approved June 25, 1895. (P. L. 280.)

So much of Section 2 of an Act entitled "An Act relative to bonds, undertakings, recognizances, guarantees and other obligations required or permitted to be made, given, tendered or filed with surety or sureties, and to the acceptance as surety or guarantor thereupon of companies qualified to act as such," approved June 26, 1895, (P. L. 343), as reads as follows:

"And if such company is incorporated under the laws of any other State or country than this State, it shall, in addition thereto, file a power of attorney appointing some resident of

this State upon whom service process may be made as required by existing laws."

An Act entitled "An Act to extend for a further period of five years the time during which corporations incorporated and existing under the laws of any other State of the United States are now authorized by law to hold real estate heretofore purchased at sheriff's or other judicial sales." Approved June 8, 1897. (P. L. 136.)

So much of Section 3 of an Act entitled "An Act regulating foreign mutual savings fund or building and loan associations doing business within this Commonwealth, and prescribing an annual license fee to be paid by such associations," approved May 11, 1901, (P. L. 153), as relates to the service of process and the designation of an agent and service upon the Commissioner of Banking.

An Act entitled "An Act validating the title to real estate, taken and held by corporations of other States, without first having established known places of business and designated authorized agents for the transaction of their business within this Commonwealth." Approved April 25, 1907. (P. L. 105.)

An Act entitled "An Act validating contracts, bonds or obligations made by corporations of other States, without first having established known places of business and designated authorized agents for the transaction of their business within this Commonwealth, and providing for the enforcement of the same." Approved May 23, 1907. (P. L. 205.)

An Act entitled "An Act relating to the service of legal process upon foreign insurance companies." Approved April 22, 1909. (P. L. 120.)

An Act entitled "An Act to enable foreign insurance corporations and joint stock companies to hold real estate in this Commonwealth." Approved June 1, 1881. (P. L. 38.)

An Act entitled "An Act authorizing companies, incorporated under the laws of any other State of the United States for the manufacture of any form of iron, steel or glass, to erect and maintain buildings and manufacturing establishments, and to take, have and hold real estate necessary and proper for manufacturing purposes." Approved June 9, 1881. (P. L. 89.)

An Act entitled "A Supplement to an Act, entitled 'An Act authorizing companies, incorporated under the laws of any other State of the United States, for the manufacture of any form of iron, steel or glass, to erect and maintain buildings and

manufacturing establishments, and to take, have and hold real estate necessary and proper for manufacturing purposes,' approved the ninth day of June, one thousand eight hundred and eighty-one, authorizing companies, incorporated under the laws of any other State of the United States, for the conversion, dyeing and cleansing of cotton and other fabrics, to erect and maintain buildings for such manufacturing purposes, and for offices and salesrooms, or either, and to take, have and hold real estate necessary and proper for such purposes." Approved June 25, 1885. (P. L. 179.)

An Act entitled "A Supplement to an Act, entitled 'A supplement to an Act authorizing companies, incorporated under the laws of any other State of the United States, for the manufacture of any form of iron, steel or glass, to erect and maintain buildings and manufacturing establishments, and to take, have and hold real estate necessary and proper for manufacturing purposes, approved the ninth day of June, one thousand eight hundred and eighty-one, authorizing companies, incorporated under the laws of any other State of the United States, for the conversion, dyeing and cleansing of cotton and other fabrics, to erect and maintain buildings for such manufacturing purposes, and for offices and salesrooms, or either, and to take, have and hold real estate necessary and proper for such purposes,' approved the twenty-fifth day of June, Anno Domini one thousand eight hundred and eighty-five, conferring similar powers upon companies, incorporated under the laws of any other State of the United States for the manufacture of lumber and wood products, and pyroligneous acids, acetate of lime and charcoal, by the process of destructive distillation, or the preparation of cattle hair for use." Approved April 28, 1887. (P. L. 77.)

An Act entitled "An Act authorizing companies incorporated under the laws of any other State of the United States for the establishment, maintenance and continuance of a ferry or for the maintenance and continuance of a bridge, between this State and any other State, upon or over any river flowing between said States, to erect and maintain piers and certain other buildings and structures, to hold real estate in this State and to mortgage, lease or convey the same." Approved June 6, 1887. (P. L. 352.)

An Act entitled "An Act authorizing companies incorporated under the laws of any other State of the United States, for the transportation of passengers and freight by steamboats or other vessels, on rivers or other waters between this State and any

other State, to hold real estate in this State, and to lease, mortgage and convey the same." Approved the 17th day of April, A. D. 1889. (P. L. 35.)

An Act entitled "A Supplement to an Act, entitled 'A supplement to an Act authorizing companies incorporated under the laws of any other State of the United States for the manufacture of any form of iron, steel or glass, to erect and maintain buildings and manufacturing establishments, and to take, have and hold real estate necessary and proper for manufacturing purposes, approved the ninth day of June, one thousand eight hundred and eighty-one, authorizing companies incorporated under the laws of any other State of the United States, for the conversion, dyeing and cleansing of cotton and other fabrics, to erect and maintain buildings for such manufacturing purposes, and for offices and salesrooms or either, and to take, have and hold real estate necessary and proper for such purposes, approved the twenty-fifth day of June, A. D. one thousand eight hundred and eighty-five, conferring similar powers upon companies incorporated under the laws of any other State of the United States for the manufacture of lumber and wood products and pyroligneous acids, acetate of lime and charcoal, by the process of destructive distillation or the preparation of cattle hair for use,' approved the twenty-eighth day of April, one thousand eight hundred and eighty-seven, conferring similar power upon companies incorporated under the laws of any other State of the United States, for the manufacture of carbon dioxide and magnesia and the products thereof, and compositions, articles and apparatus from and in connection therewith, and for the manufacture of cotton, velvet and other fabrics, and for the manufacture of extracts out of wood, bark, leaves and roots, or any other extracts for tanning, cleansing, dyeing or other purposes." Approved the 30th day of April, A. D. 1891. (P. L. 39.)

An Act entitled "A Supplement to a supplement to an Act, entitled 'A supplement to an Act authorizing companies incorporated under the laws of any other State of the United States for the manufacture of any form of iron, steel or glass, to erect and maintain buildings and manufacturing establishments, to take, have and hold real estate necessary and proper for manufacture purposes,' approved the ninth day of June, one thousand eight hundred and eighty-one, authorizing companies incorporated under the laws of any other State of the United States for the conversion, dyeing and cleansing of cotton and other fabrics to erect and maintain buildings for such man-

ufacturing purposes, and for offices and salesrooms, or either, and to take, have and hold real estate necessary and proper for such purposes, approved the twenty-fifth day of June, Anno Domini one thousand eight hundred and eighty-five, conferring similar powers upon companies incorporated under the laws of any other State of the United States for the manufacture of lumber and wood products and pyroligneous acids, acetate of lime and charcoal by the process of destructive distillation, or the preparation of cattle hair for use, approved the twenty-eighth day of April, one thousand eight hundred and eighty-seven, conferring similar power upon companies incorporated under the laws of any other State of the United States for the manufacture of carbon dioxide and magnesia and the products thereof, and compositions, articles and apparatus from and in connection therewith, and for the manufacture of cotton, velvet and other fabrics, and for the manufacture of extracts out of wood, bark, leaves and roots, or any other extracts for tanning, cleansing, dyeing or other purposes,' approved the thirtieth day of April, Anno Domini one thousand eight hundred and ninety-one, conferring similar powers upon companies incorporated under the laws of any other State of the United States for the manufacture or printing of wall paper, lithographs or prints, and for mining and manufacture of clay into brick, tile and various other articles and products produced from clay, and from clay and other substances mixed therewith." Approved the 8th day of June, A. D. 1893. (P. L. 389.)

An Act entitled "An Act to amend an Act, entitled 'An Act authorizing companies incorporated under the laws of any other State of the United States for the manufacture of any form of iron, steel or glass to erect and maintain buildings and manufacturing establishments, and to take, have and hold real estate necessary and proper for manufacturing purposes,' approved the ninth day of June, Anno Domini one thousand eight hundred and eighty-one, extending the same to companies formed for the purpose of quarrying slate, granite, stone or rocks, or for dressing, polishing, working or manufacturing the same, or any of them, and to mineral springs companies incorporated for the purpose of bottling and selling natural mineral springs water." Approved the 16th day of June, A. D. 1893. (P. L. 466.)

An Act entitled "An Act to enable foreign corporations engaged in this State in the publication and sale of books, tracts, newspapers, etc., the net profits of which are by its

charter or governing body required to be applied to religious and charitable uses, to hold real estate in this Commonwealth." Approved the 24th day of June, A. D. 1895. (P. L. 238.)

An Act entitled "An Act to amend an Act, entitled 'An Act to amend an Act, entitled "An Act authorizing companies incorporated under the laws of any other State of the United States for the manufacture of any form of iron, steel or glass, to erect and maintain buildings and manufacturing establishments, and to take, have and hold real estate necessary and proper for manufacturing purposes," approved the ninth day of June, Anno Domini one thousand eight hundred and eighty-one, extending the same to companies formed for the purpose of quarrying slate, granite, stone or rocks, or for dressing, polishing, working or manufacturing the same, or any of them, and to mineral springs companies incorporated for the purpose of bottling and selling natural mineral springs water,' approved the sixteenth day of June, Anno Domini one thousand eight hundred and ninety-three." Approved the 19th day of April, A. D. 1901. (P. L. 86.)

An Act entitled "An Act to amend an Act, entitled 'An Act to amend an Act, entitled "An Act to amend an Act, entitled 'An Act authorizing companies incorporated under the laws of any other State of the United States for the manufacture of any form of iron, steel or glass to erect and maintain buildings and manufacturing establishments, and to take, have and hold real estate necessary and proper for manufacturing purposes,' approved the ninth day of June, Anno Domini one thousand eight hundred and eighty-one, extending the same to companies formed for the purpose of quarrying, slate, granite, stone or rocks, or for dressing, polishing, working or manufacturing the same, or any of them, and to mineral springs companies incorporated for the purpose of bottling and selling natural mineral springs water," approved the sixteenth day of June, Anno Domini one thousand eight hundred and ninety-three,' approved the nineteenth day of April, Anno Domini one thousand nine hundred and one; extending the same to companies formed for the purpose of manufacturing and selling chemicals, foodstuffs, cement and cement products, and the quarrying of cement rock." Approved the 28th day of May, A. D. 1907. (P. L. 266.)

An Act entitled "An Act to amend an Act, entitled 'An Act to amend an Act, entitled "An Act to amend an Act, entitled 'An Act authorizing companies incorporated under the laws of any other State of the United States for the manufacture of any form of iron, steel or glass, to erect and maintain buildings

and manufacturing establishments, and to take, have and hold real estate necessary and proper for manufacturing purposes,' approved the ninth day of June, Anno Domini one thousand eight hundred and eighty-one, extending the same to companies formed for the purpose of quarrying slate, granite, stone or rocks, or for dressing, polishing, working or manufacturing the same, or any of them, and to mineral springs companies incorporated for the purpose of bottling and selling natural mineral springs water, approved the sixteenth day of June, Anno Domini one thousand eight hundred and ninety-three," extending the same to companies incorporated for the purpose of manufacturing, supplying and sale of ice, approved the nineteenth day of April, Anno Domini one thousand nine hundred and one,' by extending the same to companies incorporated for the manufacture of paper, wood-pulp or chemical fibre." Approved the 27th day of April, A. D. 1909. (P. L. 173.)

NOTES.

(1). This is taken from the first section of the Act of April 22d, 1874, P. L. 108, but dropping the plural of the words "office" and "agent." The constitutional provision, Article 16, Section 5, is "no foreign corporation shall do any business in this State without having one or more known places of business, and an authorized agent or agents in the same upon whom process may be served." The object of the constitution being to provide some one upon whom process may be served, one agent will do as well as several, especially since, under the service of process Act of July 9, 1901, P. L. 614, writs may be served outside of the county where issued. The decisions of Wall Paper Company's Appeal, 15 Superior Ct. 407, and Phoenix Silk Manufacturing Co. *vs.* Reilly, 187 Pa. 526, holding that there must be an agent in each office where business is transacted—the failure to do so making void contracts entered into at an office where there is no such agent—while required by the wording of the former Act impose unnecessary Acts on the corporation. The registered agent is for service of process and not transaction of business. As provided in the second section, more than one agent may be designated, but not more than one agent and one office need be.

(2). The requirement that the charter of the foreign corporation showing the extent of its powers shall be recorded at some central place where those doing business with it in the State may have access to it in order to determine the extent of its powers, assimilates the foreign to domestic corporations. The following States have such a requirement: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana,

Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming. (42.)

Alaska, Arizona, Arkansas, California, Delaware, Idaho, Montana, Nevada, New Mexico, Utah, Virginia, West Virginia, Wyoming (13) also require the charter to be recorded at the principal place of business. This assimilates the foreign still more to domestic corporations, and is convenient.

(3). This is stated in general language so as to cover special cases, especially corporations from foreign countries.

(4). This is taken from Section 2 of the Act of 1874. The corporation is required, however, to state only its principal office, for the reasons heretofore given. The agents may be more than one, so that the contingencies of death, removal, etc., may be provided against if the corporation desires.

The requirement that the certificate be preserved for public inspection in each office, contained in the Act of 1874, has been stricken out. This was useless, as the object was service of process and not transaction of business, and the decision was that the certificate might be kept in the safe and need not be displayed. *McManus Contracting Co. vs. McFadden*, 33 Superior Court, 355.

(5). This is taken from Section 3 of the Act of 1874.

(6). Under the authority of *Lasher vs. Stimson*, 145 Pa. 30, the agent of a non-registered foreign corporation is personally liable on the contracts made for it on the ground that he impliedly warrants his authority, and can have no authority where he is not officially registered as the agent. This has been limited to cases where the other party did not know he was dealing with a foreign corporation. *Stoner vs. Phillipi*, 41 Superior Court 118. The distinction is difficult to draw from the reasoning given for the decision in *Lasher vs. Stimson*, and as the corporation cannot set up its own failure to register to avoid its contracts, *Swan vs. Insurance Co.*, 96 Pa. 37, the principal is really liable. The real difficulty is to have service of process on the principal. Where service can be obtained, however, the other party obtains an opportunity to sue the very person with whom he contracted, and a rule making the agent personally liable is a harsh one, giving the other party more than he bargained for. It is, however, the statutory rule in Utah; and in Idaho and Virginia the officers are liable with the agents on contracts made before registration.

But this liability should be preserved as to foreign insurance companies. The public does not deal with them on the same footing of equality, and the agent should be personally liable if he assumes to deal on behalf of an irresponsible foreign company, which has not provided for our citizens the security required by our law.

(7). This language will cover failure to register with the Auditor-General and to pay bonus, to make annual reports and

to pay taxes as well as failure to register under the present Act.

(8). As the law aims at the doing of business within the State, both the making and the performing of contracts without being registered should be "doing business" and this wording makes it clear that both are included.

The law previously was that such contracts were void. This was not because of any express provisions in the Statute of 1874, although such provisions occur in other States, to wit: Alabama, Arizona, Arkansas, Florida, Michigan, Minnesota (if suit removed to Federal Court), Mississippi, North Dakota, Oklahoma, South Dakota and Wisconsin. (11.) It was the result of judicial construction of the effect of making the violation of the statute a misdemeanor. *Delaware River Quarry, etc., Co. vs. Bethlehem & Nazareth Pass. Ry. Co.*, 204 Pa. 22; *Pittsburgh Con. Co. vs. West Side Belt R. R. Co.*, 154 Fed. Rep. 929.

The same conclusion has been reached in other States. *Boulton vs. Organ Co.*, 92 Ala. 182; *American Ins. Co. vs. Stoy*, 41 Mich. 385; *Cary-Lombard Lumber Co. vs. Thomas*, 92 Tenn. 587.

On the other hand, certain States (Connecticut, Maine, Maryland and Massachusetts) expressly provide that the contract shall not be void; and other States, including so radical a State as Kansas, follow the doctrine that the penalty imposed by the statute is the only penalty for failure to register, and the Courts will not add a further one.

(9). The denial of the right of an unregistered foreign corporation to redress in the State Courts is very common. The following States deny it in actions founded on contract: Arkansas, California, Idaho, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Texas and Vermont. (27.)

And the following in actions of tort: Arkansas, California, Illinois, Indiana, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, North Carolina, Oklahoma, Oregon, South Dakota, Tennessee and Texas. (18.) Some states (among others Hawaii, Iowa and Utah) deny to such corporations the benefit of the laws, which would seem to deny access to the State Courts, although it has been decided to the contrary, *Booth vs. Weigand*, 30 Utah, 135. In New York, Oklahoma and Texas, among other States, the statute requires that the corporation be registered at the time the contract is made and a subsequent registration will not cure the defect. The law was formerly to the contrary. *Neuchatel Asphalte Co. vs. N. Y.*, 155 N. Y. 373. The weakness of this provision is that it does not prevent a suit in the Federal Courts having jurisdiction in the State, *Blodgett vs. Lanyon Zinc Co.*, 120 Fed. 893. Or in the Courts of another State, *Allegheny Co. vs. Allen*, 69 N. J. L. 270; 196 U. S. 458. If the contract is void where made, however, no suit may be brought on it in another State, *Allegheny Co. vs. Allen*, supra. The effective provision is that given

here, to declare the contract void so that it may not be enforced anywhere and to forbid access to our Courts for all causes of action.

(10). The object of all these provisions, however, is to foree the foreign corporation to comply with our laws, both for purposes of taxation and to bring it within reach of the process of our Courts. Provisions such as have just been reviewed, of course, operate very powerfully to both ends. But if the foreign corporation had not complied at the time it made a contract, and there is no way of curing the lapse, there is no incentive to the corporation to pay its taxes, and the result is not to benefit the State but to benefit the other party to the contract. He may take the fruits of it and not pay anything, and this results often in a very unjust enrichment of him, who may himself be an unregistered foreign corporation. How unjust this is will be seen by the cases cited above. In the Delaware River Quarry case a recovery of nearly \$30,000 for work done by a construction company was refused, and in the West Side Belt Railroad Company case a recovery of over \$325,000 was denied upon a claim so far meritorious that it was based on an award of the Railroad Company's engineer acting as arbitrator. By the provisions of this proposed Act the failure of the foreign corporation to provide an agent for the service of process is met by appointing the Secretary of the Commonwealth such agent. The best way to compel the payment of tax would be to impose severe penalties for failure to do so, but permit relief upon full compliance with our laws. This is the policy of the Stamp Acts enacted by Congress. Documents coming within their provisions which were not stamped when executed might be stamped on paying a small penalty. This is also the policy of the Pennsylvania Act of May 23, 1907, P. L. 205, which validated contracts entered into by unregistered foreign corporations upon registering and paying tax before suit was brought. By its provisions, however, it was retroactive only. The policy it indicates should be made permanent.

Your Committee feels that a change of the law in this regard is especially important, and submits herewith a draft of a separate Act (see page 74) to accomplish it, which should be enacted if for any reason the general foreign corporation law under discussion should not be approved.

(11). The necessity of this provision is evidenced by such cases as *St. Clair vs. Cox*, 106 U. S. 350; *Goldey vs. Morning News*, 156 U. S. 518; *Mutual Life Insurance Co. vs. Spratley*, 172 U. S. 602; *Conley vs. Mathieson Alkali Works*, 190 U. S. 406; holding that it is necessary to jurisdiction over a foreign corporation that it shall be doing business, in the State at the time suit is brought. But the corporation may be sued with its assent though it is not doing business, and the validity of such a provision as in this proposed Act to secure such assent is determined by such cases as *Hill vs. Empire State, etc., Company*, 156 Fed. Rep. 797; *Home Ben. Soc. vs. Muehl*, 109 Ky. 479; *Germania Ins. Co. vs. Ashby*, 112 Ky. 303; *Groel vs. United El. Co.*, 69 N. J. Eq. 397; *Mutual Reserve, etc., Assn.*

vs. Phelps, 190 U. S. 147. It is practically the law at the present time with regard to insurance companies. Act of April 4, 1873, P. L. 27.

(12). The Act of 1874 contains no provision for a substitution of an agent in case the one appointed be, for any reason, disqualified. The service of process Act of April 3, 1903, P. L. 139, permits service of process by leaving at the place of business if the agent is not there during business hours. It has been decided that if the registered agent leaves the employ of the corporation as its commercial agent, and is not found at the place of business, the corporation nevertheless maintains him as its registered agent and complies with the law so long as his authority as registered agent is not revoked. *De La Vergne Refrigerator Co. vs. Kolischer*, 214 Pa. 400. But the agent may die, or he may want to sue himself, and if no provision for compulsory substitution is made the object of the law will be defeated.

(13). So, also, if the corporation shall cease to maintain the office designated process cannot be served by leaving, or should not properly be so served.

(14). Equally important is a provision by which corporations which never comply with our laws and yet do business with us may be subjected to the process of our Courts.

(15). Accordingly it is provided automatically in such cases that a public official shall be the agent. A similar provision is found in a great many of the States.

In some the Secretary of State is designated as agent for service of process if the designated agent die or remove only:—Alabama, Arkansas, Idaho, Michigan, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Vermont, Washington. (11.)

In others the Secretary of State is the agent, but the party may serve any other agent at his option. This is the present law of Pennsylvania with regard to insurance companies. Act of April 4, 1873, Sec. 13, P. L. 27. So in Arkansas, Kansas, Maine, Massachusetts, Nebraska, Pennsylvania (ins.) and West Virginia. (7.)

In others the Secretary of State is the only agent for service of process on foreign corporations, and no other agent may be served:—Connecticut, Delaware, District of Columbia (fraternal ins.), Kentucky (ins.), Minnesota (ins.), North Dakota and Wisconsin. (7.)

In others the Secretary of State is the agent if no appointment be made by the corporation:—Arkansas, California, Idaho, Louisiana, Nevada, North Carolina, Oklahoma, Oregon and Washington. (9.)

It seems wise to permit the corporation to designate its own agent so that notice may be more surely brought to it, but it is best to provide very fully for cases in which the corporation fails to comply with our law or to maintain its compliance.

The validity of the provision is attested by the case of *Old Wayne Mutual Life Association vs. McDonough*, 204 U. S. 8.

This sentence should be read in connection with Section 5 and would only authorize such service in suits growing out of business done within the State. Such service in other suits would be invalid, as the McDonough case decides. The statute usually requires the corporation to file a power of attorney designating the State officer as its agent. Of that character is the Pennsylvania law as to insurance. It has been decided that on failure to file the power of attorney the State officer nevertheless becomes agent for service of process. *McCullagh vs. Railway Mail Assn.*, 33 Pa. C. C. 529; *Diamond Plate Glass Co. vs. Minn. F. I. Co.*, 55 Fed. 27; *Ehrman vs. Ins. Co.*, 1 Fed. 471; *Berry vs. Indemnity Co.*, 46 Fed. 439; *Knapp vs. Natl. M. F. I. Co.*, 30 Fed. 607; *Lathrop Co. vs. Interior, Etc., Co.*, 150 Fed. 666. It seems simpler to make the designation of agent automatic.

It will be convenient at times to serve the Deputy, which must, however, be specially authorized. *Reynolds vs. Heptasophs*, 9 Dist. Rep. 622; *McCann vs. Old Wayne, Etc., Co.*, 10 Dist. Rep. 560.

(16). The necessity of designating some known person as agent is that there may be somebody within the State upon whom the process of the Courts can be served. Such process does not run beyond the borders of the State, and the Courts have no jurisdiction upon such service. While this satisfies the technical requirement of the law, it is really a fiction, and justice is better served by actual notice outside of the State than by constructive notice in it. Therefore, to do justice and bring actual notice to the corporation, service is required also to be made outside of the State. The usual provision of the State Statutes is that the Secretary of State or State Auditor or Clerk of Court shall mail a copy of the process to the office of the corporation. These States are Alabama, Arkansas, Connecticut, Delaware (ins.), Idaho, Kansas, Kentucky (ins.), Maine, Massachusetts, Michigan, Nebraska, New Jersey, New Mexico, North Dakota, Oregon, West Virginia and Wisconsin. (17.)

Michigan requires the plaintiff himself to give mail notice. Other States require nothing to be done after serving the State official. Mailing of notice, however, is not as accurate as actual service, and most of the statutes fail to provide for a case in which the location of the company's office is not known to the State official, and a still more difficult case where the company may have no office. It seems better to provide, as Maryland does, that there shall be actual service, and that this may be made as though the corporation was in the State, so that service may be made on an officer of the company or at the company's office as shall be most convenient.

(17). Sufficient time should be allowed after this actual notice for the corporation to interpose a defense if it has any. The object is not to catch the foreign corporation napping, but to bring it within the jurisdiction of our Courts. Michigan and Mississippi require thirty days' notice, and Oregon forty days.

(18). If we permit foreign corporations freely to do business in this State, we should permit them to own the necessary real

estate and not drive them to subterfuges such as domestic holding companies and trusteeships. The Act of April 26, 1855, P. L. 329, forbade foreign corporations to hold real estate and provided for its escheat to the State. This disability, however, can be taken advantage of by the State only, taking proceedings to escheat; *Leazure vs. Hillegas*, 7 S. & R. 313, and in practice such proceedings are not taken by the Commonwealth. The only reported instance is *Commonwealth vs. New York, Lake Erie and Western R. R. Co.*, 132 Pa. 591, overruling the same case, 114 Pa. 340, which failed. Exceptions have been created, until in practice they are nearly as important as the principal law. Foreign corporations may purchase at judicial sales to protect liens, Act of May 23, 1887, P. L. 176. Special classes of foreign corporations have been permitted to hold real estate: Insurance companies, Act of June 1, 1881, P. L. 38; river transportation companies, Act of May 25, 1887, P. L. 352; ferry and bridge companies, Act of May 25, 1887, P. L. 269; corporations for manufacturing iron, steel, paper, wood-pulp, chemical fibre, glass, lumber, wood, cotton, velvet or other fabrics, for the dyeing, etc., of cotton and other fabrics, for the manufacture of certain chemicals, wood extracts, tanning extracts, for the manufacture of wall paper, etc., brick, etc., Act of April 27, 1909, P. L. 173, which is the final amendment of a long series of Acts of 1881, 1885, 1887, 1891 and 1893, for the quarrying of slate, granite and other rocks, the bottling of mineral spring water, the manufacture of ice, the manufacture of chemicals, foodstuffs and cement, Act of May 28, 1907, P. L. 266, which was a final amendment of a series of Acts enacted in 1881, 1893 and 1901; religious publication societies, Act of June 24, 1895, P. L. 238.

The provisions of these Acts have all been collected in one statute of which a draft is presented herewith. Owing to confusion in the various enactments as explained in a note to that draft it may be desirable to re-enact these statutes in case the provision now suggested is not approved.

The Legislature has also, by the Act of June 24, 1895, P. L. 264, validated all conveyances made by such foreign corporations before proceedings are begun by the State. This Act applies to future as well as past cases, and therefore makes unnecessary the very numerous retroactive validating Acts which have been passed by the Legislatures of 1861, 1869, 1876, 1878, 1881, 1887, 1891, 1897, 1903, 1907 and 1909.

The laws of the following States permit foreign corporations complying with the laws to hold real estate: Arizona, Arkansas, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa (qualified), Massachusetts, Minnesota, Missouri, Nebraska (railroad and mfg. and in cities), Nevada, New Mexico, New Hampshire (mfg.), New Jersey, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina (less than 500 acres), South Dakota, Tennessee, Texas, Virginia (mfg. lim.), Washington, West Virginia, Wisconsin (less than 320 acres). (30.)

Besides Pennsylvania only Nebraska makes prohibition the rule and permission the exception, and there the exception is a large one applying to railroad and all manufacturing corporations and the holding of real estate in towns. It is evidently

aimed at farm land companies. Georgia fixed a maximum of 5,000 acres. The Act of Congress in force in the District of Columbia and in the former territories of New Mexico and Oklahoma forbids the holding of real estate by corporations where more than 20 per cent. of the stock is owned by aliens. This is also a statutory provision in Wisconsin.

The limit fixed in this Act is that imposed upon domestic corporations of the same kind.

(19). This is the present law: *Leazure vs. Hillegas*, 7 S. & R. 313. It seems wise to make the provision in order that a contrary construction may not prevail.

(20). This continues the policy of the present Act of June 24th, 1895, P. L. 264, which, however, is not expressly repealed.

(21). If this is to be the policy of the State for the future, it should also be for the past, and it is in line with the numerous validating Acts already referred to.

(22). The present rule is that the burden is on the foreign corporation to show that it has complied with the law, and is lawfully doing business in the Commonwealth, in all cases. As such proof in most cases will be a formal matter, it tends to expedition and the avoidance of technicality, that a special issue should be made of failure to comply, and it is in harmony with the Act of June 24, 1885, P. L. 149, requiring an issue as to the existence of a corporation to be specially tendered.

But the burden of proof should be on the person having the affirmative of the issue.

(23). Under the rule of *Madden vs. Electric Light Co.*, 181 Pa. 617, and 199 Pa. 454; *McCloskey vs. Snowden*, 212 Pa. 249, the Courts of one State will not hear causes involving the internal management of corporations of another State. This is because it involves dealing with the laws of another State, because the decree would only take effect in this State and there would exist the anomaly of one result in one State where the corporation operated and another result in another State, and also because the enforcement of the decree would be difficult. This applies to corporate elections, the compelling transfer of stock by mandamus, improper conduct of officers, and kindred matters. But where a corporation is merely incorporated abroad, and comes into this State to do its principal business, so that its officers and stockholders and books are all here, convenience and justice to our citizens would lead us to grant relief in our Courts, and not drive a citizen to what is but the nominal home of the corporation, which may be on the other side of the Continent. The practical difficulties are not insuperable, and if in a particular case they become so, the Act, by its express provisions, will not apply.

(24). Provisions are found in the statutes of many States to keep foreign corporations out of the Federal Courts. These States are Alabama, Indiana, Kentucky, Louisiana, Oklahoma, Oregon, South Carolina and Wisconsin. (8.)

A State statute cannot oust the Federal Court from jurisdiction

of a particular case, nor can it make the exercise of this right a penal offence. *Insurance Co. vs. Morse*, 20 Wallace, 445. But as the State may exclude foreign corporations at will, it may exclude them for invalid reasons, and a statute revoking the corporation's license to do business because it exercised its right of removal is valid. *Doyle vs. Continental Ins. Co.*, 94 U. S. 535; *Security Mutual, Etc., Co. vs. Prewitt*, 202 U. S. 246. Following the policy of permitting bona fide foreign corporations full privileges under our laws, but encouraging corporations that really intend to do business here to incorporate under our laws rather than the laws of other States, the restriction is only imposed on the latter class of corporations.

(25). While other statutes do not require proceedings in Court, it seems fairer to do this and notice and hearing is then provided for.

(26). This definition so far as applies to the word "Corporation" is in part taken from the Constitution of Pennsylvania, Article 16, Section 13, with the addition of some words to refer to particular classes of quasi corporations.

Complaint was made to your Committee of the difficulty of determining whom to sue in the case of certain foreign partnerships operating under a system of quasi incorporation unknown to our laws. Certain express companies are of this character. These, however, are such special cases that it is difficult to provide for them by any more general words than are here used.

(27). The retroactive feature of this Act may be valid under the decision of *St. Mary's Petroleum Co. vs. W. Va.*, 203 U. S. 183, in consequence of the reserved power of the State to alter charters. Uniformity is so desirable that the attempt should be made to apply this Act to all.

(28). This section is so worded that Acts applying to service of process on foreign insurance companies, such as the Act of April 4, 1873, P. L. 27, foreign mutual benefit societies and other kindred special laws shall be superseded, and the same procedure applied to all foreign corporations. This is advisable unless there is a reason for special procedure with regard to a particular class of corporations, and this is not the case as to the matters covered by this Act.

(29). The repealing clause is also made special. There have been omitted, however, the various Acts validating conveyances of real estate made by foreign corporations which were forbidden to hold real estate. While the subject matter of these Acts is covered by the present Act, yet, as they are muniments of title, it will be less disturbing to have them remain on the statute books.

(30). The subject of the domestication of foreign corporations as covered by the Act of June 9, 1881, P. L. 89, has not been covered in this Act, because it is so intimately connected with what should be required of domestic corporations that it seems inadvisable to recast the law at all until the subject of domestic

corporations is covered. The object should be to make the foreign corporation comply with the same provisions as a domestic corporation.

The policy of requiring foreign corporations to give bail on appeal and security for costs has not been altered, as the protection of our citizens requires it. The same consideration applies for foreign attachment, in addition to the tendency to discourage thereby the practice of going abroad to incorporate.

Some States require an investigation of the financial standing of foreign corporations by the officer receiving the registration and the refusal of registry to those which are irresponsible, and suggestions were made to your Committee that it be adopted by Pennsylvania. This is impracticable in a State so large as ours. It might lead to abuses, and seems premature until we so supervise our own corporations. For purposes of taxation reports of considerable fullness as to their assets, etc., are now made.

AN ACT VALIDATING UNDER CERTAIN CONDITIONS CONTRACTS MADE
BY FOREIGN CORPORATIONS WHICH SHALL HAVE DONE OR SHALL
DO ANY BUSINESS WITHIN THIS COMMONWEALTH WITHOUT FIRST
HAVING COMPLIED WITH THE LAWS RELATING TO FOREIGN COR-
PORATIONS.

SECT. 1. Be it enacted, etc., that whenever any foreign corporation shall have done or shall do any business within this Commonwealth, without first having complied with the laws of this Commonwealth relating to foreign corporations, all contracts entered into in the course of such doing of business shall be binding upon the parties thereto, and such corporation may enforce the same in the Courts of this Commonwealth or any other Court having jurisdiction: Provided, that prior to commencing a suit upon such contract, the said corporation shall have complied with the laws of this Commonwealth relating to foreign corporations: And provided further, that prior to commencing such suit accounts for bonus on capital stock and all State taxes for each year that it shall have done business in this Commonwealth shall have been settled against such corporation in the manner required by law, and paid by it, together with such interest and penalties thereon as shall be shown by such accounts.

NOTE.

This Act makes permanent the policy of the Commonwealth indicated by the Act of May 23, 1907, P. L. 205, which was retroactive only; and also the Act of May 11, 1901, P. L. 172. It applies to a failure to register with the Auditor-General as

well as the Secretary of the Commonwealth, the principle applicable being the same. The considerations in its favor are given in connection with a similar section in the general foreign corporation law recommended by your Committee (Section 4). The passage of this Act, in addition to the general Act, is necessary in order to provide for cases arising under the laws now in existence.

AN ACT REGULATING THE MAKING OF CERTAIN REPORTS AND STATEMENTS TO THE AUDITOR-GENERAL FOR PURPOSES OF STATE TAXATION.

SECT. 1. Be it enacted, etc., That all reports and statements required to be made by law to the Auditor-General for purposes of State taxation by any person, persons, corporation, limited partnership or joint stock associations, shall be made in the month of January of each year, and shall cover the next preceding calendar year, and payment of all such taxes shall be made in the month of February then following: Provided, That the time of making such reports and statements by public officers shall remain as now provided by law.

NOTE.

The variety of the time at which reports are now required is shown by the following:

Premiums of insurance companies—Semi-annually on the first days of July and January. Act of June 28, 1895, P. L. 408.

Stock of trust companies—Annually on or before June 20. Act of June 13, 1907, P. L. 640.

Gross receipts of transportation and other companies—Semi-annually before July 31 and January 31. Act of June 1, 1889, P. L. 420, Section 23.

Bank stock—Annually on or before June 20. Act of July 15, 1897, P. L. 292. If 10 mills on the par value of the stock be paid before March 1, certain exemptions from taxation are secured. This will not be altered by the present Act.

Capital stock—Annually in the month of November for the calendar year. Act of June 8, 1891, P. L. 229.

Corporate loans—Annually on the first Monday of November for the calendar year. Acts of June 30, 1885, P. L. 193, and June 8, 1891, P. L. 229.

Net earnings of certain corporations (applicable only to corporations without capital stock)—Annually on first Monday of November. Act of June 1, 1889, P. L. 420.

Matured stock of building associations—The law is indefinite. and they are therefore made for the calendar year as soon after its close as convenient. Act of June 22, 1897, P. L. 178.

Gross receipts of private bankers—Annually on the first Monday of December, for year ending November 30. Act of June 27, 1895, P. L. 396.

Notaries Public—Annually on or before December 31. Act of May 20, 1865, P. L. 846.

Orders for wages—Annually on the first day of November, Act of June 24, 1901, P. L. 596, Section 1.

Foreign corporations, bonus on capital stock—Annually before November 30. Act of May 8, 1901, P. L. 150.

The times of payment directed by these Acts vary considerably with relation to the time of report. But the practice is common to await a settlement by the Auditor-General and State Treasurer, and notice thereof, as interest does not begin to run until that time. This will doubtless continue to be done.

The proviso excepts the returns of public officers. The principal return is that of municipal loans, the tax on which your Committee now proposes to abolish, and these are now required to be made for the calendar year. The numerous other requirements for the return of petty taxes and license fees are too many and complicated to be changed by a general Act, and they are therefore left untouched.

REVENUE LAWS

Careful consideration has been given by your Committee to the laws of the Commonwealth providing State Revenue and to the relation of the Commonwealth to the several counties in the matter of taxes collected from the citizens thereof.

They have for treatment divided the subject into five heads.

- A. The objects upon which State revenue is expended.**
- B. Increase of State revenue.**
- C. Change of the burden of taxation.**
- D. More effective collection of taxes under present laws.**
- E. Relation of State to counties in collection and distribution of revenue.**

(A). EXPENDITURES.**APPROPRIATIONS TO CHARITY.**

The present system by which the charitable work of the Commonwealth is in large part done by privately-managed institutions, assisted by State appropriations, is one in which Pennsylvania has been the pioneer as well as now the leader. Beginning in 1850, the appropriations have increased until for the two years of 1911 and 1912 the sum so appropriated was \$6,249,400 to 275 institutions. The total amount so appropriated in the years during which the practice has existed is \$51,090,098.66. A table which will be found on page 82, has been prepared at our request by the State Board of Charities, which shows these appropriations in detail. Here is also shown the appropriations to institutions in part or in whole managed by the Commonwealth. In general, it may be said of the two classes of appropriations that they have been approximately equal. The Commonwealth endeavors to see that the money is expended for the purposes for which appropriated, but it does not attempt to supervise the details of expenditure or in any wise to interfere with the management of the institution.

The following States make similar appropriations: Delaware, Illinois, Kentucky, Maine, Maryland, Massachusetts, New Mexico, New Jersey, New York, North Dakota, Oregon, Washington and Wisconsin. Certain other States make appropriations to what we classify as semi-State institutions. These are Arkansas, California, Connecticut, Idaho, Indiana, Iowa, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New York, Ohio, Oklahoma, Tennessee, Texas, Utah, Vermont and Wyoming.

The State supports in whole or in part the following eight institutions for the insane: Harrisburg, Danville,

Norristown, Warren, Dixmont, Wernersville, Farview and Rittersville.

These institutions contain 9,467 indigent patients. Except Dixmont, they are the property of the Commonwealth and receive patients from the districts in which they are located, except Wernersville, the hospital for the chronic insane, who are transferred from other hospitals for the insane. The cost of maintenance is divided. The county and poor districts from which the indigent patient is sent to pay to the institution, for each patient, \$1.75 per week. The rest of the cost of maintenance, up to a maximum of \$4.25 per week, and the cost of buildings is paid by the Commonwealth. But the Commonwealth frequently makes up a deficit in case the maintenance should be more than this amount. The entire cost of maintaining the insane in Pennsylvania is, approximately, \$4,000,000 per year.

The other institutions of the Commonwealth containing the indigent insane are what is known as County Care Institutions, and are in the following counties and cities:

Adams County Insane Hospital, Gettysburg.

Allegheny County Hospital, Woodville.

Pittsburgh North Side City Home and Hospital.

Pittsburgh City Home and Hospital, Marshalsea.

Blair County Hospital for the Insane, Hollidaysburg.

Chester County Hospital for the Insane, Embreeville.

Cumberland County Hospital for the Insane, Carlisle.

Elk County Asylum, St. Marys.

Eric County Home, Erie.

Franklin County Home, Chambersburg.

Jefferson County Asylum, Brookville.

Central Poor District Hospital for the Insane, Retreat.

Lancaster County Hospital for the Insane, Lancaster.

Hospital for the Insane, Hillside Home, Clark's Summit.

Mercer County Hospital for the Insane, Mercer.

Philadelphia, Hospital, Insane Department, Philadelphia.

Potter County Home, Coudersport.

Schuylkill County Hospital for the Insane, Schuylkill Haven.

Somerset County Hospital for Insane, Somerset.

Westmoreland County Home, Insane Department, Greensburg.

Blakeley Home, Lackawanna County, Olyphant.

These institutions were built by and are owned by the respective counties and cities in which they are located. They are maintained by the counties, the Commonwealth contributing to the county, for each patient, the sum of \$2.00 per week. The number in these institutions is 6,993, making the entire indigent population 16,460.

All the State institutions are crowded, and Blockley, in the City of Philadelphia, is so over-crowded that it is filled to double its intended capacity.

Two new State hospitals for the insane were just erected; one for the criminal insane, at Farview, Wayne County, which was opened December 17, 1912, and the other at Rittersville (near Allentown), called the Homeopathic Hospital, which was opened October 19, 1912. There is still enough surplus in the other State hospitals to fill every ward, and unless the Legislature, at the coming session makes provision for the erection of a new hospital or added wards to those in existence, there will not be, in a short time, sufficient hospital accommodations to care for the normal increase, which is about 600 a year. It is thus apparent that each session of the Legislature must provide for the care of at least 1,200 patients additional, either by building a new hospital or by adding wards to those already built.

Summary of Appropriations for Sixty-two Years.

Year.	First class†	Amount first class	Second class†	Amount second class	Total number	Total amount
1850-----	3	\$69,166 54	4	\$65,767 85	7	\$134,934 39
1851-----	3	70,109 00	3	33,000 00	6	103,109 00
1852-----	3	80,417 00	4	48,000 00	7	128,417 00
1853-----	3	44,609 00	4	62,000 00	7	106,609 00
1854-----	3	41,500 00	6	67,000 00	3	108,500 00
1855-----	4	58,712 00	5	56,000 00	9	114,712 00
1856-----	4	68,975 00	5	86,000 00	9	154,975 00
1857-----	4	63,142 00	5	126,000 00	9	189,142 00
1858-----	4	57,045 00	7	132,500 00	11	189,545 00
1859-----	4	85,894 00	8	111,000 00	12	196,894 00
1860-----	4	138,961 00	6	115,750 00	10	254,711 00
1861-----	4	132,211 00	6	104,800 00	10	237,011 00
1862-----	4	91,800 00	7	114,280 00	11	206,080 00
1863-----	4	74,100 00	16	146,800 00	20	220,900 00
1864-----	4	108,530 00	22	171,147 00	26	279,677 07
1865-----	4	123,089 50	26	227,059 00	30	350,148 50
1866-----	4	143,200 00	7	188,369 70	11	331,569 70
1867-----	4	130,832 00	10	183,000 00	14	313,832 00
1868-----	4	136,300 00	7	217,000 00	13	403,300 00
1869-----	5	311,887 00	12	243,500 00	17	555,387 00
1870-----	5	222,355 26	10	173,000 00	15	395,355 26
1871-----	5	420,614 62	17	239,295 00	22	659,909 62
1872-----	5	179,800 00	10	365,686 24	15	545,486 24
1873-----	6	324,344 04	11	421,008 50	17	745,352 54
1874-----	8	695,150 00	13	222,016 78	21	917,166 78
1875-77-----	8	825,875 00	13	550,800 00	21	1,376,675 00
1877-79-----	9	1,798,029 76	14	590,658 19	23	2,388,687 95
1879-81-----	8	916,434 96	8	342,860 00	16	1,259,294 96
1881-83-----	10	1,183,164 89	15	850,570 49	25	2,033,735 38
1883-85-----	11	1,299,150 00	22	757,158 00	33	2,056,308 00
1885-87-----	10	2,372,085 92	27	1,005,562 00	37	3,377,647 92
1887-89-----	10	2,077,052 27	35	1,228,276 20	45	3,305,328 47
1889-91-----	9	1,511,076 99	52	1,644,095 55	61	3,155,172 54

Summary of Appropriations for Sixty-two Years—
Continued.

Year.	First class*	Amount first class	Sec- ond class†	Amount second class	Total num- ber	Total amount
1891-93-----	14	\$2,184,207 92	68	\$1,722,686 52	82	\$3,906,894 44
1893-95-----	15	2,194,086 37	95	2,496,515 64	110	4,690,602 01
1895-97-----	16	2,356,439 68	112	2,371,143 50	128	4,727,583 18
1897-99-----	15	2,606,386 66	118	2,434,687 43	133	5,041,074 09
1899-01-----	15	2,860,693 53	129	2,299,030 00	144	5,159,723 53
1901-03-----	19	3,277,790 00	142	3,024,025 00	161	6,301,815 00
1903-05-----	20	4,671,722 75	176	4,657,100 00	196	9,328,822 75
1905-07-----	34	6,858,179 18	177	4,142,550 00	211	11,000,729 18
1907-09-----	27	4,961,974 64	224	5,502,600 00	251	10,464,574 64
1909-11-----	28	5,362,863 69	239	5,300,400 00	267	10,663,263 69
1911-12-----	33	6,047,187 21	275	6,249,400 00	308	12,296,587 21
Totals-----		\$59,287,136 38		\$51,090,098 66		\$110,377,235 04

* First class includes State and semi-State institutions.

† Second class includes hospitals, sanatoria and homes not under State control.

Commencing with 1907-09 the figures above only show appropriations to institutions over which the Board has control, and they do not include the special appropriations to the indigent insane, or institutions under construction and educational institutions.

The special appropriations to the indigent insane are shown on the next page.

*Summary of Appropriations for the Care and Treatment
of the Indigent Insane.*

Date.	Maintenance.
1885-1886.....	\$1,050,000 00
1887-1888.....	900,000 00
1889-1890.....	800,000 00
1891-1892.....	900,000 00
1893-1894.....	1,015,000 00
1895-1896.....	1,000,000 00
1897-1898.....	1,450,000 00
1899-1900.....	1,700,000 00
1901-1902.....	1,800,000 00
1903-1904.....	2,000,000 00
1905-1906.....	2,100,000 00
1907-1908.....	2,500,000 00
1909-1910.....	3,000,000 00
1911-1912.....	3,443,966 76
Total.....	\$23,658,966 76

The only possible alternative to this is the building of hospitals by the counties, under the County Care Act. From present appearances, it does not look probable that many more counties will avail themselves of this Act.

As to the weak-minded, there are three institutions devoted to their care, to wit: Polk, Spring City and Elwyn. The last mentioned is not a State institution. It receives by appropriation \$200 a year per capita of 700 patients. The City of Philadelphia makes a like appropriation for the support of 150 children. The amount will probably be increased $12\frac{1}{2}$ per cent. this year. Polk has 1,600 patients and is a State institution. Spring City, also a State institution, is for the weak-minded and epileptic. This institution is only partly finished and contains 418 weak-minded and epileptics.

Hospitals for the deaf, dumb and blind, as well as the oral schools for the deaf mutes, are not State institutions, nor under State control, though they are almost wholly maintained by the Commonwealth by a per capita appropriation.

The only place for epileptics maintained by the Commonwealth is at Spring City, and two private institutions, the Pennsylvania Epileptic and Colony Farm at Oakbourne, in the Eastern part of the State, and the other, the Passavant Memorial Home at Rochester in Beaver County, in the western part of the State, and both receive State aid.

As to hospitals for the care of the sick and injured, these consist of institutions wholly supported by the Commonwealth, viz.: At Mercer, Blossburg, Hazleton, Philipsburg, Scranton, Ashland, Connellsville, Nanticoke, Shamokin and Coaldale.

The inmates number over 8,000, and the total number of hospital days is about 173,000. The cost of maintenance, May 31, 1911, to June 1, 1912, was \$266,043.19.

The private hospitals and sanitarium receiving State aid number 155. Their total cost for maintenance, May 31,

1911, to June 1, 1912, was approximately \$3,399,720.67. The number of indoor patients treated free, 98,202, and the aggregate number of free hospital days, 1,975,516. The free dispensary days numbered 714,366. The aid given to these institutions by the Commonwealth for maintenance amounted to \$4,494,800, for the years May 31, 1911, to June 1, 1913, for buildings, \$429,500. A table giving this information in greater detail will be found elsewhere (see pages 96-133).

There are also homes and kindred institutions. They are all private. Those that receive State aid are 120 in number.

The pauper class is cared for by the poor districts—and always has been in this Commonwealth.

The insane were originally cared for in the poor districts with the other dependents. The burden was then borne entirely by the county, city or poor district. Afterward the Commonwealth began to shoulder part of the burden by building and equipping the present State hospitals for the insane, heretofore referred to. The Act to create the first State hospital at Harrisburg was approved April 14, 1845. These State hospitals care for all the indigent patients sent them, charging the poor districts \$1.75 per week for each patient. Nearly 10,000 are cared for in this way. The other 5,000 or 6,000 are cared for in certain cities and counties which have erected hospitals for that purpose, the Commonwealth contributing \$2.00 a week for each patient's maintenance. There are a few in the poor houses—probably between 200 and 300—maintained entirely by the poor authorities. Counting buildings and maintenance, more than three-fourths of the cost of maintaining is borne by the State.

All the weak-minded who are in institutions are supported by the Commonwealth, as are epileptics, save a few in two small institutions, which receive State aid.

The cost of maintaining the criminals, like that of the poor, was formerly borne entirely by the counties; but

the Commonwealth took upon itself a part of the burden by erecting what is known as the Eastern and Western Penitentiaries, to which certain classes of criminals may be sent, the counties from which they are sent paying the cost of maintenance, the Commonwealth being at the cost of the buildings and their maintenance, and of the officers and attendants.

The indigent inmates of the blind, deaf and dumb institutions, and schools for oral teaching of mutes, are maintained substantially by the Commonwealth. So are the inmates of the Glen Mills Schools at Philadelphia, and Pennsylvania Reform School, Morganza—incorrigible boys and girls.

Hospitals for the sick and injured, and homes for the dependent, and kindred institutions, except the eight hospitals heretofore referred to, are supported in part by the Commonwealth.

The Commonwealth is thus gradually coming more and more to caring for the dependent, defective and criminal classes. Except the poor in almshouses and hospitals, it is now doing almost all of this work. The appropriations for all charities, including those above named, for the years May 31, 1911, to June 1, 1913, were \$15,558,653.21.

Assaults are made upon the present system, and so far as they are directed at the method or lack of method in the appropriations so divided among the several institutions, your Committee believes they are to a certain degree well founded. These complaints have come from so many sources that they have become generally familiar. In the report of 1911, your Committee reviewed these in some detail. It called attention to the careful estimates prepared by the State Board of Charities, and to the fact that in practice the action, both of the Legislature and of the Governor—who has a discretion to cut down the amount appropriated by the Legislature in each case—showed that the protests were unavailing. At the Fourth State Conference of Charities and Correction,

held at Wilkes-Barre in October, 1912, a very vigorous protest along the same lines was made. It is elsewhere referred to in this report in connection with the creation of a Department of State Charitable Institutions. (See page 134.)

In view of the history of these protests in the past and their repetition from other sources, your Committee will not enter into detail here, merely urging upon the Legislature the desirability of avoiding any other considerations than the merit of the particular institution in performing what has come to be, in respect to money value, one of the most important of their duties.

The State Board of Charities gives careful consideration to the requests of all such institutions for State aid, and if its recommendations were followed substantial justice would be done. Its recommendations are based upon the apparent need of the institutions, limited by the amount of free service rendered.

For information, however, a table showing the relation of the amounts asked for by institutions, the amounts recommended by the Board of Charities, and the amounts approved by the Governor, is here inserted.

	Amounts approved by Governor, 1909-1910.	Amounts applied for by all institutions, 1911-1912.	Amounts recom- mended by Board of Charities, 1911-1912.	Amounts approved by Governor, 1911-1912.	Amounts applied for by all institutions, 1913-1914.
State Institutions	*\$7,887,427.33	*\$8,010,482.22	*\$6,414,032.78	†\$7,999,052.21	†\$11,563,563.37
Semi-State Institutions	1,436,410.32	1,606,700.00	1,524,733.00	1,310,100.00	1,714,270.00
Hospitals and Sanataria	4,724,500.00	11,147,767.00	5,068,762.00	5,353,800.00	10,572,675.82
Homes, etc.	722,400.00	1,814,259.07	880,675.00	895,600.00	2,293,440.53
Totals	\$14,770,737.65	\$22,579,208.29	\$13,970,040.78	\$15,558,653.21	\$26,143,949.72

*These amounts include \$3,000,000.00 for maintenance of indigent insane.

†These amounts include \$3,443,966.00 for maintenance of indigent insane.

One of the possible abuses connected with these appropriations has, as heretofore mentioned, been removed by the Act of June 9, 1911, (P. L. 736), making appropriations to private institutions, liens upon their real estate, so that when they cease to give free aid the Commonwealth may have a means of recovering the money given to them for that purpose. The constitutionality of a similar Act has been recently sustained by the Supreme Court in *Booth & Flinn vs. Miller*, 237 Pa. 297.

The Conference of Charities and Corrections recommended, as many have done in the past, that the policy of the Commonwealth be gradually limited and reduced and eventually abandoned. It seems to your Committee that however gradual the process of withdrawing these appropriations, the fact of withdrawal would entail great hardship. The lack of funds would not soon be supplied by individual effort, and many institutions would have to close. A policy begun by one Legislature might not be continued by the next, and in view of the past history of the relation of actual appropriations to the recommendation of the Board of Public Charities, it would seem very unlikely that any well-drawn scheme would be actually adhered to. The same influences which now cause an inequality of result would distort and render ineffective any such attempted system.

So far as the recommendations of this Conference urge that State institutions be given prior consideration, they accord heartily with what your Committee has previously said and now repeats. The primary object of these appropriations is the good of our citizens (especially the good to our afflicted and unfortunate and otherwise helpless), and not the aggrandizement of any particular institution. That those institutions which the Commonwealth itself thinks necessary to establish should have the first consideration seems elementary. The review elsewhere given of the present State institutions, and the need for more, shows the importance of the adherence to this principle.

Your Committee cannot, however, endorse any argument based upon the volume of the present appropriations or the supposed superfluity of present institutions. The Commonwealth is now free from debt and has a splendid revenue. The means are at hand and are pointed out by your Committee of gradually increasing her revenue, and this without imposing unjust burdens or adding to those which our people are abundantly able to bear. Such objects of State expenditure as highways and schools are of great importance. But they must, under any relation of revenue and expenditure, be of vastly secondary importance to the care of the poor and the suffering. The wealth of our State depends in great part upon industry and manufacturing, and these produce more than their share of accidental deaths and injury. They attract foreign laborers, who will in time become useful citizens, but who on their introduction to this country contain more than their share of the dependent classes. Partly empty institutions are better than needless suffering, and any attempt to refuse State help in this regard is unwise as well as inhumane.

There has been prepared by the Board of Public Charities, at the request of your Committee, a table which shows as to most of the hospitals of the State, (only those which did not make report being omitted), of free hospital days; that is to say, the total number of days that one free patient was treated by the hospital, and also the cost of each day of such treatment, the total cost of the free days, the State appropriation and the excess of deficiency of appropriation proportioned to the cost of free treatment and other valuable information.

The results shown by this table vary considerably. Most hospitals have expended more in free treatment than they have received from the Commonwealth. The total cost of "free hospital days," May 31, 1911, to June 1, 1912, was \$3,612,322.22, and the appropriations (to these hospitals) were \$2,204,900. Twenty hospitals re-

received from the Commonwealth more money than they expended in free treatments. The table, however, does not show the results for the second year for which appropriations have been made, and as the institutions are permitted to adjust in the second year any balance for or against them as a result of the first year, the net result of the two years may show a more even result. The excess of appropriation over expense is not nearly so great as in the table submitted with your Committee's last report. The greatest excess is shown in the case of the Frankford Hospital of Philadelphia, which, however, is only \$7,964.36. As to all of the 20 hospitals it must also be said that the expense of their dispensary work is not reckoned in these tables, and cannot well be estimated. Nevertheless, it is a considerable item in the work of almost all the institutions. As between the several hospitals also, the table may not do justice. The ratio of dispensary work to treatment in the wards varies with the institutions. Mount Sinai Hospital of Philadelphia, for example, for the year ending May 31, 1912, paid for "free hospital days" \$46,213.56, and received a State appropriation of \$24,000. It has only 53 beds, but its dispensary work extended in that year to 50,490 patients. Nor is the method of arriving at the cost of "free hospital days" the same in all institutions, owing to difference in book-keeping and the different relation of the various parts of the work to general expenses of administration, overhead charges and the like.

One of the important labors of a Department of State Charitable Institutions, such as is advocated and is discussed herein, at page 134, would be the imposition of a uniform method of accounting upon institutions receiving State aid, so that their needs may all be judged upon a common basis. Complaints of the irrational method of State appropriations to these institutions are matched by complaints that the institutions themselves

do not present that uniformity in the method of stating their needs, which makes a rational judgment possible.

Many institutions, on the other hand, spend far more money in free treatment than they get from the State. The Howard Hospital of Philadelphia spent \$22,250.90, and received only \$7,000, and the University of Pennsylvania spent \$159,518.72, and received only \$75,000. Jefferson Hospital, of Philadelphia, spent \$122,083.20, and received from the Commonwealth \$95,000. As to 23 hospitals, however, the difference was less than a thousand dollars.

The unit of cost per person also varies widely, due in some cases to the location of the hospital in a remote district, where, however, service is as necessary as in the populous centers, and in other cases to the treatment of special diseases like cancer. The following table will show the wide range:

HIGHEST.

American Oncologic Hospital of Philadelphia	\$3.98
American Hospital for Diseases of the Stomach, Philadelphia	3.81
Todd's Hospital, Carlisle	3.70

LOWEST.

Wyoming Valley Society for Consumptives, Wilkes-Barre...	.55
Children's Hospital, Philadelphia67
Pennsylvania Epileptic Hospital and Colony Farm, Oakbourne, Chester County69
Maternity Hospital, Philadelphia	1.05

CARE OF TUBERCULOSIS.

The present policy of the Commonwealth for the treatment of advanced cases of tuberculosis is the erection of special institutions conducted under the direction of the State Department of Health. It is during this stage alone that tuberculosis is at all contagious, and then, so eminent authorities contend, chiefly by close personal contact with a patient who is so enfeebled as not to be able to properly care for himself, and so poor as not to be able to get anyone to care for him. The policy of segregation, and of taking these patients out of their homes, is the wise one, and is approved by experts in the treatment of this disease.

To place these people in remote institutions is in many cases a hardship both to the patients and to their friends, in spite of the advantage of more skilful care. Believing that they must die they wish to do so in the company of their friends, naturally preferring their own comfort to the good of humanity. The expense and distance of travel is an obstacle to family visits and is very keenly felt.

It is the contention of other authorities that consumption may be transmitted without such continuous and intimate association with a sufferer and that many cases show no such history. Upon such a view of the case are based the present consumptive hospitals at Mount Alto and Cresson, situated at remote mountain points and separating the patients entirely from those of any other class.

Whichever view be correct, it is quite sure that the disease is not infectious or immediately contagious in the ordinary sense. All that is needed is the preventing of immediate contact with others. In the present advanced state of hospital management and the emphasis

on cleanliness and the segregation of diseased matter so that it has become instinct to every doctor and nurse, tubercular cases can be treated at our present hospitals if separate wards are provided for them. This is now done successfully at both the Jewish and Episcopal Hospitals in Philadelphia. In the smaller rural communities especially, such an adjunct to the hospitals would be a boon to the people. It would result in a more numerous treatment of these cases, and by reason of utilizing the administrative equipment of hospitals already in existence, could probably be done at as little expense as in separate institutions. The prejudice which is sometimes manifested against tubercular patients and the fear of contagion would disappear as the facts were better understood. This work could go hand in hand with the admirable work of the State institutions, and the patient and his advisers would have a choice of method. So important is the crusade against the white plague that your Committee believes that no reasonable means should be neglected, and it recommends that some part of the appropriations to private hospitals be used for the purpose of establishing wards for tubercular patients.

*Statement Showing Free Hospital Days, Cost Per Diem, Etc., of State Aided Hospitals During
the Fiscal Year Ending May 31, 1912, from Data Collected and Prepared by the Board of
Public Charities.*

HOSPITALS.						
	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appropriation.	Amount of appropriation not expended.
Adrian Hospital, Punxsutawney -----	11,988	\$1 50	\$17,982 00	\$17,500 00	\$482 00	-----
Allegheny General Hospital -----	63,968	2 16	138,170 88	85,500 00	52,670 88	-----
Allegheny Valley General Hospital, Tarentum -----	1,938	1 71	3,313 98	3,500 00	-----	\$186 02
Allentown Hospital -----	21,488	1 60	34,380 80	15,000 00	19,380 80	-----
Altoona Hospital -----	26,524	1 50	39,786 00	26,000 00	13,786 00	-----
American Hospital for Diseases of Stomach, Philadelphia -----	3,539	3 81	13,483 59	5,000 00	8,483 59	-----
American Oncologic Hospital, Philadelphia -----	2,544	3 98	10,125 12	10,000 00	125 12	-----
Barnes, Simon H., Memorial Hospital, Susquehanna -----	852	2 16	1,840 32	2,500 00	-----	659 68
Beaver Valley General Hospital, New Brighton -----	4,758	2 54	12,085 32	7,500 00	4,585 32	-----
Bedford County Hospital, Bedford (not yet started) -----						
Bellefonte Hospital -----	3,967	1 57	6,228 19	5,000 00	1,228 19	-----

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appropriation.	Amount of appropriation not expended.
Berwick Hospital -----	1,563	\$1 34	\$2,094 42	\$1,500 00	\$594 42	-----
Blair, J. C., Memorial Hospital and Training School for Nurses, Huntington -----	3,161	2 66	8,408 26	6,000 00	2,408 26	-----
Braddock General Hospital -----	7,922	2 11	16,715 42	15,000 00	1,715 42	-----
Bradford Hospital -----	6,520	1 44	9,388 80	9,000 00	388 80	-----
Brownsville General Hospital (not yet in operation) -----	-----	-----	-----	2,500 00	-----	-----
*Bryn Mawr Hospital -----	29,277	1 30	\$8,060 10	-----	-----	-----
Buhl, Christian H., Hospital, Sharon -----	6,109	2 13	13,012 17	12,500 00	512 17	-----
Butler County General Hospital, Butler -----	5,004	1 70	8,506 80	10,000 00	-----	\$1,493 20
*Cambria Iron Company's Hospital, Johnstown -----	9,658	1 61	15,549 38	-----	-----	-----
Cannonsburg General Hospital -----	152	2 45	372 40	1,500 00	-----	1,127 60
Carbondale Hospital -----	7,239	1 34	9,700 26	12,000 00	-----	2,299 74
Chambersburg Hospital -----	4,613	1 30	5,996 90	6,250 00	-----	253 10
Charity Hospital, Norristown -----	9,172	1 65	15,133 80	12,500 00	2,633 80	-----

*Does not receive State aid

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.						
	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appro- piation.	Amount of appro- piation not ex- pended.
Chester Hospital -----	13,823	\$1 31	\$18,108 13	\$18,500 00	\$4,135 49	\$391 87
Chester County Hospital, West Chester-----	13,275	1 67	22,169 25	8,000 00	14,169 25	
Chestnut Hill Hospital -----	2,006	3 04	6,093 24	1,000 00	5,098 24	
Children's Homeopathic Hospital, Philadelphia-----	25,289	1 38	34,898 92	25,000 00	9,898 82	
Children's Hospital, Philadelphia -----	20,398	0 67	13,666 66			
Children's Hospital, Pittsburgh -----	22,681	1 63	36,970 03	20,000 00	16,970 03	
City Hospital Association of Washington-----	5,000	1 35	6,750 00	5,000 00	1,750 00	
Clearfield Hospital -----	6,105	1 25	7,631 25	5,000 00	2,631 25	
Coatesville Hospital -----	5,166	1 82	9,402 12	7,500 00	1,902 12	
Columbia Hospital -----	4,535	1 95	8,843 25	5,000 00	3,843 25	
Columbia Presbyterian Hospital, Wilkensburg-----	10,426	2 52	26,273 52	18,000 00	8,273 52	
Conemaugh Valley Hospital, Johnstown-----	25,655	1 39	34,826 45	30,000 00	4,826 45	
Corry Hospital -----	2,242	1 77	3,968 34	7,000 00		3,031 66

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.						
	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appropriation.	Amount of appropriation not expended.
Douglass, Frederick, Hospital, Philadelphia.....	5,807	\$1 94	\$11,265 58	\$10,000 00	\$1,265 58	-----
DuBois Hospital	2,671	1 51	4,033 21	4,000 00	33 21	-----
Easton Hospital	13,039	1 75	22,818 25	13,500 00	9,318 25	-----
Elk County General Hospital, Ridgway.....	3,538	1 97	6,969 86	9,000 00	-----	\$2,030 14
*Episcopal Hospital, Philadelphia	-----	1 62	-----	-----	-----	-----
Eye and Ear Hospital, Pittsburgh.....	5,256	3 60	18,921 60	20,000 00	-----	1,078 40
*Fabiana Italian Hospital, Philadelphia.....	1,063	1 35	1,435 05	-----	-----	-----
Frankford Hospital, Philadelphia	14,566	2 26	32,964 36	25,000 00	-----	7,964 36
Franklin Hospital	3,143	2 65	8,328 95	8,000 00	328 95	-----
Garrettson Hospital, Philadelphia	4,012	2 75	11,033 00	10,000 00	1,033 00	-----
General Emergency Hospital, Pittsburgh.....	2,745	1 83	5,023 35	1,500 00	3,523 35	-----
German Hospital, Philadelphia	35,215	2 34	82,403 10	10,000 00	72,403 10	-----
*Germantown Hospital, Philadelphia	32,571	1 95	63,513 45	-----	-----	-----

*Does not receive State aid.

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appropriation.	Amount of appropriation not expended.
Good Samaritan Hospital, Lebanon-----	7,002	\$1 59	\$11,133 18	\$8,500 00	\$2,633 18	-----
Greenville Hospital -----	1,130	2 62	2,960 60	2,500 00	460 60	-----
Grove City Hospital -----	1,311	2 79	3,657 69	2,500 00	1,157 69	-----
Gynecan Hospital, Philadelphia -----	5,400	3 00	16,200 00	15,000 00	1,200 00	-----
Hahnemann Hospital, Philadelphia -----	42,334	2 38	100,754 92	60,000 00	40,754 92	-----
Hahnemann Hospital, Scranton -----	11,192	2 05	22,943 60	15,000 00	7,943 60	-----
Hamot Hospital, Erie -----	11,717	1 73	20,270 41	17,500 00	2,770 41	-----
Harrisburg Hospital -----	18,448	1 60	29,516 80	20,000 00	9,516 80	-----
Harrisburg Polyclinic Hospital -----	1,422	1 25	1,777 50	2,000 00	-----	\$222 50
Homeopathic Medical and Surgical Hospital, Pittsburgh--	30,540	2 19	66,882 60	65,000 00	1,882 60	-----
Homeopathic Hospital, Reading -----	10,705	1 51	16,164 55	8,500 00	7,664 55	-----
Homestead Hospital -----	5,495	1 94	10,660 30	9,000 00	1,660 30	-----
Howard Hospital, Philadelphia -----	9,082	2 45	22,250 90	7,000 00	15,250 90	-----

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.					
	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in appropriation. Amount not expended.
Jefferson Hospital, Philadelphia -----	63,585	\$1 02	\$122,083 20	\$95,000 00	\$27,083 20
Jewish Hospital, Philadelphia -----	24,889	1 77	44,053 53	22,500 00	21,553 53
*Jewish Maternity Hospital, Philadelphia-----	4,438	1 76	7,810 88		
Johnstown City Hospital -----	2,716	1 30	3,530 80	4,000 00	\$469 20
Kane Summit Hospital -----	4,220	1 65	6,963 00	5,250 00	1,713 00
Kensington Hospital for Women, Philadelphia-----	5,063	2 51	12,708 13	10,000 00	2,708 13
Kittanning Hospital -----	1,542	2 34	3,608 28	4,000 00	391 72
Lancaster General Hospital -----	13,721	1 82	24,972 22	15,000 00	9,972 22
Latrobe Hospital -----	2,978	2 16	6,432 48	4,000 00	2,432 48
Lewistown Hospital -----	5,569	1 92	10,692 48	8,000 00	2,692 48
*Lincoln Memorial Hospital, Pittsburgh -----		3 33			
Lock Haven Hospital -----	12,239	1 53	18,725 67	13,000 00	5,725 67
*Magee, Elizabeth Steel, Maternity Hospital, Pittsburgh--	16,357	2 63	43,018 91		

*Does not receive State aid.

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.		Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appropriation.	Amount of appropriation not expended.
Markleton General Hospital	-----	4,755	\$1 39	\$6,609 45	\$6,000 00	\$609 45	-----
Maternity Hospital, Philadelphia	-----	5,639	1 11	6,259 29	3,000 00	3,259 29	-----
McKeesport Hospital	-----	20,184	1 82	36,734 88	30,000 00	6,734 88	-----
Meadville City Hospital	-----	4,422	2 35	10,391 70	10,000 00	391 70	-----
Medico-Chirurgical Hospital, Philadelphia	-----	30,212	3 16	95,469 92	87,500 00	7,969 92	-----
*Mercy Hospital of Altoona	-----	2,924	1 79	5,233 96	-----	-----	-----
*Mercy Hospital, Johnstown	-----	2,318	2 06	4,775 08	-----	-----	-----
Mercy Hospital and Nurse School, Philadelphia	-----	4,888	1 34	5,879 92	5,000 00	879 92	-----
Mercy Hospital, Pittsburgh	-----	53,002	1 64	86,923 28	50,000 00	36,923 28	-----
Mercy Hospital, Wilkes-Barre	-----	20,444	1 60	32,710 40	22,500 00	10,210 40	-----
*Methodist Hospital, Philadelphia	-----	15,884	2 28	36,215 52	-----	-----	-----
Mid-Valley Hospital, Blakely (not yet in operation)	-----	-----	-----	-----	1,000 00	-----	-----
Miners' Hospital, Spangler	-----	3,657	1 66	6,070 62	6,000 00	70 62	-----

*Does not receive State aid.

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in appropriation.	Amount of appropriation not expended.
Monongahela Hospital, Monongahela -----	4,923	\$1 58	\$7,778 34	\$7,500 00	\$7,278 34	-----
Monroe County Hospital, Stroudsburg -----	-----	2 51	-----	1,000 00	-----	-----
Montefiore Hospital, Pittsburgh -----	9,687	2 28	22,040 76	15,000 00	7,040 76	-----
Mt. Pleasant Hospital -----	9,130	1 49	13,603 70	10,000 00	3,603 70	-----
Mount Sinai Hospital, Philadelphia -----	18 786	2 46	46,213 56	24,000 00	22,213 56	-----
Nanticoke Hospital -----	3,468	2 39	8,288 52	12,500 00	-----	\$4,211 48
Nason Hospital, Roaring Spring -----	4,151	1 79	7,430 29	7,000 00	430 29	-----
New Castle Hospital -----	4,031	1 12	4,514 72	2,000 00	2,514 72	-----
North Penna. General Hospital and Sanatorium, Austin-	2,618	2 39	6,257 02	6,000 00	257 02	-----
Northwestern General Hospital, Philadelphia -----	2,155	3 67	7,908 85	5,000 00	2,908 85	-----
Ohio Valley Hospital, McKees Rocks -----	6,019	2 13	12,820 47	12,000 00	820 47	-----
Oil City Hospital -----	4,407	1 89	8,329 23	8,000 00	329 23	-----
Packer, Mary M., Hospital, Sunbury -----	5,004	1 83	9,157 32	7,000 00	2,157 32	-----

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.						
	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appropriation.	Amount of appropriation not expended.
Packer, Robert, Hospital, Sayre -----	6,641	\$1 67	\$11,090 47	\$11,250 00	-----	\$159 53
Panther Creek Hospital, Coal Dale -----	13,021	1 44	18,750 24	10,000 00	\$8,750 24	-----
Passavant Hospital, Pittsburgh -----	4,124	1 96	8,083 04	5,000 00	3,083 04	-----
Penna. Epileptic Hospital and Colony Farm, Oakburne..	22 126	0 69	15,266 94	4,500 00	10,766 94	-----
*People's Co-operative Hospital, Sayre -----	1,047	1 58	1,654 56	-----	-----	-----
Philadelphia Lying-in Charity Hospital, Philadelphia----	8,293	2 26	18,742 18	10,000 00	8,742 18	-----
Philadelphia Orthopaedic Hospital -----	19,377	2 10	40,691 70	18,000 00	22,691 70	-----
Philadelphia Polyclinic Hospital -----	15,968	2 30	36,726 40	32,500 00	4,226 40	-----
Phoenixville Hospital -----	5,024	2 31	11,605 44	12,500 00	-----	894 56
Pittsburgh Hospital (Sisters of Charity)-----	18,547	1 92	35,610 24	20,000 00	15,610 24	-----
Pittston Hospital -----	6,257	1 48	9,260 36	8,000 00	1,260 36	-----
Pottstown Hospital -----	6,293	1 63	10,257 59	10,000 00	257 59	-----
Pottsville Hospital -----	26,657	2 30	34,654 10	25,000 00	9,654 10	-----

*Does not receive State aid.

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.					
	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appropriation. Amount of appropriation not expended.
*Presbyterian Hospital, Philadelphia -----		\$2 41			
Presbyterian Hospital, Allegheny -----	10,620	2 24	\$23,788 80	\$17,500 00	\$6,288 80
Providence Hospital, Beaver Falls -----	2,420	2 64	6,388 80	3,000 00	3,388 80
Punxsutawney Hospital -----	5,191	1 98	10,018 63	7,500 00	2,518 63
Ratti, Joseph, Hospital, Bloomsburg -----	2,077	1 77	3,676 29	2,250 00	1,426 29
Reading Hospital -----	17,575	1 77	31,107 75	12,500 00	18,607 75
Renovo Hospital -----	980	2 23	2,185 40	1,500 00	685 40
Rochester General Hospital -----	4,447	1 88	8,360 36	6,000 00	2,360 36
Roosevelt Hospital, Philadelphia -----	7,025	1 18	8,289 50	4,000 00	4,289 50
St. Agnes' Hospital, Philadelphia -----	10,613	1 52	16,131 76		
St. Christopher's Hospital for Children, Philadelphia -----	12,833	1 61	20,661 13	8,500 00	12,161 13
St. Francis' Hospital, Pittsburgh -----	59,738	1 62	\$6,775 56	50,000 00	46,775 56
St. John's Hospital, Allegheny -----	6,919	2 21	15,200 99	15,000 00	200 99
*St. Joseph's Hospital, Lancaster -----	4,488	2 12	9,514 56		

*Does not receive State aid.

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appropriation.	Amount of appropriation not expended.
St. Joseph's Hospital, Philadelphia -----	23,864	\$2 29	\$54,648 56	\$30,000 00	\$24,648 56	-----
St. Joseph's Hospital, Pittsburgh -----	9,490	2 15	20,403 50	12,500 00	7,903 50	-----
St. Joseph's Hospital, Reading -----	17,440	1 05	18,312 00	10,000 00	8,312 00	-----
St. Luke's Hospital, Bethlehem -----	16,099	2 01	32,358 99	15,000 00	17,358 99	-----
St. Luke's Homeopathic Hospital, Philadelphia -----	9,711	2 02	19,616 22	15,000 00	4,616 22	-----
*St. Margaret's General Hospital, Pittsburgh -----	18,568	2 66	49,390 88	-----	-----	-----
St. Mary's Hospital, Philadelphia -----	22,243	1 61	35,811 23	20,000 00	15,811 23	-----
St. Timothy's Hospital, Philadelphia -----	16,391	1 85	30,323 35	15,500 00	14,823 35	-----
St. Vincent's Hospital, Erie -----	12,076	1 77	21,374 52	17,500 00	3,874 52	-----
Samaritan Hospital, Philadelphia -----	28,065	2 14	60,059 10	30,000 00	30,059 10	-----
Sewickley Valley Hospital Association, Sewickley -----	5,270	2 22	11,699 40	5,000 00	6,699 40	-----
Shenango Valley Hospital, New Castle -----	6,212	2 39	14,846 68	12,000 00	2,846 68	-----
South Side Hospital, Pittsburgh -----	22,972	2 38	54,673 86	50,000 00	4,673 86	-----
Spencer Hospital, Meadville -----	3,828	1 76	6,737 28	5,250 00	1,487 28	-----

*Does not receive State aid.

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appropriation.	Amount of appropriation not expended.
Springdale General Hospital -----	1,147	\$1 85	\$2,121 55	\$900 00	\$1,221 95	-----
Stetson Hospital, Philadelphia -----	9,254	2 32	21,469 28	2,500 00	18,969 28	-----
Suburban General Hospital, Bellevue -----	2,359	2 07	4,676 13	3,500 00	1,176 13	-----
Taylor Hospital Association -----	7,024	1 55	10,887 20	9,000 00	1,887 20	-----
Titusville Hospital -----	2,625	2 73	7,166 25	5,500 00	1,666 25	-----
Todd Hospital, Carlisle -----	457	3 70	1,690 90	2,000 00	-----	\$309 10
Uniontown Hospital -----	11,373	1 71	19,447 83	19,000 00	447 83	-----
University of Pennsylvania Hospital, Philadelphia -----	62,312	2 56	159,518 72	75,000 00	84,518 72	-----
Warren Emergency Hospital -----	4,762	2 06	9,809 72	7,000 00	2,809 72	-----
Washington Hospital -----	3,598	1 84	6,620 32	5,000 00	1,620 32	-----
Waynesburg Hospital -----	1,429	2 68	3,829 72	3,750 00	79 72	-----
Western Pennsylvania Hospital, Pittsburgh -----	53,505	1 82	97,379 10	70,000 00	27,379 10	-----
Westmoreland Hospital Association, Greensburg -----	9,040	1 65	14,916 00	15,000 00	-----	84 00
West Philadelphia General Homeopathic Hospital -----	5,399	1 94	10,474 06	8,000 00	2,474 06	-----

Statement Showing Free Hospital Days, Cost Per Diem, Etc.—Continued.

HOSPITALS.	Free hospital days.	Cost per diem.	Total cost of free days.	State appropriation.	Amount expended in excess of appropriation.	Amount of appropriation not expended.
West Philadelphia Hospital for Women-----	5,463	\$2 29	\$12,510 27	\$6,000 00	\$6,510 27	-----
West Side Hospital, Scranton -----	12,007	1 71	20,531 97	14,000 00	6,531 97	-----
Wilkes-Barre Hospital -----	26,499	1 85	49,023 15	32,000 00	17,023 15	-----
Williamsport Hospital -----	23,419	1 50	35,128 50	27,500 00	7,628 50	-----
Wills Hospital, Philadelphia -----	23,451	1 59	37,287 09	12,500 00	24,787 09	-----
*Windber Hospital -----	4,304	3 51	15,107 04	-----	-----	-----
Women's Homeopathic Hospital Association, Philadelphia	20,460	1 45	29,667 00	15,000 00	14,667 00	-----
Women's Hospital, Philadelphia -----	21,509	2 03	43,663 27	22,500 00	21,163 27	-----
Women's Medical College of Pennsylvania Hospital, Phila.	7,469	2 65	19,792 85	17,000 00	2,792 85	-----
Women's Southern Homeopathic Hospital, Philadelphia---	6,534	1 92	12,545 28	5,000 00	7,545 28	-----
Wyoming Valley Homeopathic Hospital, Wilkes-Barre----	3,685	2 08	7,664 80	4,000 00	3,664 80	-----
York Hospital -----	11,600	1 51	17,516 00	12,300 00	5,016 00	-----
Total hospitals-----	1,918,000	-----	\$3,612,322 22	\$2,204,900 00	\$1,131,173 77	\$27,257 86

*Does not receive State aid.

NOTE.—Hospitals not shown herein failed to submit statistics.

Statement Showing Total Appropriations to the Various Hospitals, Not Under State Control, for Maintenance, Buildings, Improvements, Etc., to May 31, 1913, from Data Collected and Prepared by the Board of Public Charities.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
Adrian Hospital, Punxsutawney -----	\$183,000 00	\$32,000 00	\$13,000 00	\$228,000 00
Allegheny General Hospital -----	939,000 00	255,000 00	-----	1,194,000 00
Allegheny Valley General Hospital, Tarentum -----	7,000 00	-----	-----	7,000 00
Allentown Hospital -----	134,000 00	10,500 00	-----	144,500 00
Altoona Hospital -----	266,000 00	46,500 00	10,000 00	322,500 00
American Hospital for Diseases of Stomach, Philadelphia -----	20,000 00	15,000 00	-----	35,000 00
American Oncologic Hospital, Philadelphia -----	70,000 00	-----	5,000 00	75,000 00
Barnes, Simon H., Memorial Hospital, Susquehanna -----	13,000 00	2,000 00	-----	15,000 00
Beaver Valley General Hospital, New Brighton -----	100,000 00	18,000 00	13,000 00	131,000 00
Bellefonte Hospital -----	31,000 00	17,000 00	1,000 00	49,000 00
Berwick Hospital -----	7,000 00	2,000 00	-----	9,000 00

Statement Showing Total Appropriations to Various Hospitals, for Maintenance, Etc.—Continued.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
Blair, J. C., Memorial Hospital and Training School for Nurses, Huntingdon -----	\$12,000 00			\$12,000 00
Braddock General Hospital -----	80,000 00	\$15,000 00		95,000 00
Bradford Hospital -----	111,000 00	72,000 00	\$5,000 00	188,000 00
Brownsville General Hospital -----	5,000 00	5,000 00		10,000 00
Buhl, Christian H., Hospital, Sharon -----	114,000 00	33,000 00	5,000 00	152,000 00
Butler County General Hospital -----	77,500 00	25,000 00		102,500 00
Cannonsburg General Hospital -----	10,000 00			10,000 00
Carbondale Hospital -----	149,500 00	10,800 00	11,000 00	171,300 00
Chambersburg Hospital -----	37,500 00		2,000 00	39,500 00
Charity Hospital, Norristown -----	140,000 00	18,500 00	7,000 00	165,500 00
Chartiers Valley General Hospital, Ingram -----	10,000 00			10,000 00
Chester Hospital -----	175,000 00	28,000 00	3,000 00	206,000 00
Chester County Hospital, West Chester -----	113,000 00	5,000 00	2,000 00	120,000 00

Statement Showing Total Appropriations to Various Hospitals, for Maintenance, Etc.—Continued.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
Elk County General Hospital, Ridgway-----	\$71,000 00	-----	\$2,000 00	\$73,000 00
Eye and Ear Hospital, Pittsburgh-----	116,000 00	\$48,000 00	-----	164,000 00
Frankford Hospital, Philadelphia -----	130,000 00	65,000 00	-----	195,000 00
Franklin Hospital -----	64,000 00	20,000 00	-----	84,000 00
Garrettsen Hospital, Philadelphia -----	100,000 00	50,000 00	-----	150,000 00
General Emergency Hospital, Pittsburgh-----	7,000 00	-----	-----	7,000 00
German Hospital, Philadelphia -----	237,500 00	76,600 00	-----	314,100 00
Good Samaritan Hospital, Lebanon-----	114,000 00	41,000 00	-----	155,000 00
Greenville Hospital -----	15,000 00	-----	1,000 00	16,000 00
Grove City Hospital -----	11,000 00	-----	-----	11,000 00
Gynecean Hospital, Philadelphia -----	248,750 00	52,000 00	-----	300,750 00
Hahnemann Hospital, Philadelphia -----	673,280 00	240,000 00	-----	1,013,280 00
Hahnemann Hospital, Scranton -----	106,500 00	55,000 00	-----	161,500 00

Statement Showing Total Appropriations to Various Hospitals, for Maintenance, Etc.—Continued.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
Hamot Hospital, Erie -----	\$168,059 96	\$21,000 00	-----	\$189,059 96
Harrisburg Hospital -----	190,000 00	95,000 00	\$9,500 00	294,500 00
Harrisburg Polyclinic Hospital -----	4,000 00	-----	-----	4,000 00
Homeopathic Medical and Surgical Hospital, Pittsburgh--	854,639 28	310,000 00	7,500 00	1,172,139 28
Homeopathic Hospital, Reading -----	76,500 00	-----	1,000 00	77,500 00
Homestead Hospital -----	33,000 00	10,000 00	1,000 00	44,000 00
Howard Hospital, Philadelphia -----	71,000 00	10,000 00	-----	81,000 00
Jefferson Hospital, Philadelphia -----	900,000 00	550,000 00	150,000 00	1,600,000 00
Jewish Hospital, Philadelphia -----	145,000 00	45,000 00	-----	190,000 00
Johnstown City Hospital -----	23,000 00	-----	-----	23,000 00
Kane Summit Hospital -----	59,500 00	5,000 00	4,753 59	69,253 59
Kensington Hospital for Women, Philadelphia-----	85,000 00	15,000 00	10,000 00	110,000 00
Kittanning Hospital -----	40,000 00	7,000 00	-----	47,000 00

Statement Showing Total Appropriations to Various Hospitals, for Maintenance, Etc.—Continued.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
Lancaster General Hospital -----	\$119,000 00	\$70,000 00	-----	\$189,000 00
Latrobe Hospital -----	12,000 00	-----	-----	12,000 00
Lewistown Hospital -----	40,000 00	16,000 00	-----	56,000 00
Lock Haven Hospital -----	79,000 00	20,000 00	\$4,000 00	103,000 00
Markleton General Hospital -----	36,000 00	-----	-----	\$36,000 00
Maternity Hospital, Philadelphia -----	57,625 00	2,000 00	-----	59,625 00
McKeesport Hospital -----	271,000 00	106,000 00	9,000 00	386,000 00
Meadville City Hospital -----	95,500 00	3,000 00	29,500 00	128,000 00
Medico-Chirurgical Hospital, Philadelphia -----	940,000 00	690,000 00	210,000 00	1,840,000 00
Mercy Hospital and Nurse School, Philadelphia -----	30,000 00	-----	-----	30,000 00
Mercy Hospital, Pittsburgh -----	554,500 00	190,000 00	25,000 00	769,500 00
Mercy Hospital, Wilkes-Barre -----	138,000 00	45,000 00	-----	183,000 00
Mid-Valley Hospital, Blakely -----	2,000 00	16,000 00	-----	18,000 00

Statement Showing Total Appropriations to Various Hospitals, for Maintenance, Etc.—Continued.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
Miners' Hospital, Spangler -----	\$25,000 00	\$3,000 00	-----	\$28,000 00
Monongahela Hospital, Monongahela -----	55,000 00	40,000 00	-----	95,000 00
Monroe County Hospital, Stroudsburg -----	2,000 00	-----	-----	2,000 00
Montefiore Hospital, Pittsburgh -----	30,000 00	17,000 00	\$3,000 00	50,000 00
Mt. Pleasant Hospital -----	62,166 96	23,000 00	-----	85,166 96
Mount Sinai Hospital, Philadelphia -----	98,000 00	5,000 00	-----	103,000 00
Nanticoke Hospital -----	40,000 00	10,000 00	-----	50,000 00
Nason Hospital, Roaring Spring -----	54,000 00	-----	1,000 00	55,000 00
New Castle Hospital -----	4,000 00	-----	-----	4,000 00
North Penna. General Hospital and Sanatorium, Austin- Northwestern General Hospital, Philadelphia -----	32,000 00	-----	-----	32,000 00
Ohio Valley Hospital, McKees Rocks -----	10,000 00	-----	5,000 00	15,000 00
Oil City Hospital -----	54,000 00	29,000 00	-----	83,000 00
	149,000 00	19,000 00	1,500 00	169,500 00

Statement Showing Total Appropriations to Various Hospitals, for Maintenance, Etc.—Continued.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
Packer, Mary M., Hospital, Sunbury-----	\$96,000 00	\$9,000 00	-----	\$105,000 00
Packer, Robert, Hospital, Sayre -----	121,500 00	26,591 76	-----	148,091 76
Panther Creek Hospital, Coal Dale -----	33,000 00	7,000 00	\$10,000 00	50,000 00
Passavant Hospital, Pittsburgh -----	20,000 00	5,000 00	-----	25,000 00
Penna. Epileptic Hospital and Colony Farm, Oakburne-----	63,000 00	-----	1,000 00	64,000 00
Philadelphia Lying-In Charity Hospital, Philadelphia-----	133,500 00	-----	-----	133,500 00
Philadelphia Orthopaedic Hospital -----	189,000 00	46,000 00	21,000 00	256,000 00
Philadelphia Polyclinic Hospital -----	377,500 00	165,000 00	-----	542,500 00
Phoenixville Hospital -----	114,000 00	15,000 00	20,000 00	149,000 00
Pittsburgh Hospital (Sisters of Charity)-----	135,000 00	45,000 00	10,000 00	190,000 00
Pittston Hospital -----	139,500 00	31,000 00	11,500 00	182,000 00
Pottstown Hospital -----	110,500 00	65,500 00	-----	176,000 00
Pottsville Hospital -----	275,000 00	-----	12,000 00	287,000 00

Statement Showing Total Appropriations to Various Hospitals, for Maintenance, Etc.—Continued.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
Presbyterian Hospital, Allegheny -----	\$135,000 00	\$115,000 00	-----	\$250,000 00
Providence Hospital, Beaver Falls-----	6,000 00	10,000 00	-----	16,000 00
Punxsutawney Hospital -----	15,000 00	2,500 00	\$500 00	18,000 00
Ratti, Joseph, Hospital, Bloomsburg-----	11,500 00	8,000 00	-----	19,500 00
Reading Hospital -----	198,500 00	25,000 00	11,900 00	235,400 00
Renovo Hospital -----	4,500 00	-----	5,000 00	9,500 00
Rochester General Hospital -----	49,000 00	15,000 00	1,000 00	65,000 00
Roosevelt Hospital, Philadelphia -----	16,000 00	-----	-----	16,000 00
St. Agnes' Hospital, Philadelphia -----	155,000 00	15,000 00	-----	170,000 00
St. Christopher's Hospital for Children, Philadelphia-----	119,000 00	-----	-----	119,000 00
St. Francis' Hospital, Pittsburgh -----	232,500 00	125,000 00	67,500 00	425,000 00
St. John's Hospital, Allegheny -----	134,000 00	40,000 00	-----	174,000 00
St. Joseph's Hospital, Philadelphia -----	220,000 00	-----	34,000 00	254,000 00

Statement Showing Total Appropriations to Various Hospitals, for Maintenance, Etc.—Continued.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
St. Joseph's Hospital, Pittsburgh -----	\$45,000 00	\$25,000 00	\$5,000 00	\$75,000 00
St. Joseph's Hospital, Reading -----	75,000 00	15,000 00	-----	90,000 00
St. Luke's Hospital, Bethlehem -----	225,500 00	5,000 00	-----	230,500 00
St. Luke's Homeopathic Hospital, Philadelphia -----	115,000 00	55,000 00	-----	170,000 00
St. Mary's Hospital, Philadelphia -----	104,500 00	10,000 00	6,000 00	120,500 00
St. Timothy's Hospital, Philadelphia -----	147,000 00	29,000 00	8,500 00	174,500 00
St. Vincent's Hospital, Erie -----	114,000 00	-----	16,500 00	130,500 00
Samaritan Hospital, Philadelphia -----	235,000 00	135,000 00	-----	370,000 00
Sewickley Valley Hospital Association, Sewickley -----	21,500 00	2,500 00	-----	24,000 00
Shenango Valley Hospital, New Castle -----	160,826 68	40,500 00	12,000 00	213,326 68
South Side Hospital, Pittsburgh -----	446,000 00	20,000 00	-----	466,000 00
Spencer Hospital, Meadville -----	83,000 00	22,500 00	2,000 00	107,500 00
Springdale General Hospital -----	1,800 00	-----	-----	1,800 00

Statement Showing Total Appropriations to Various Hospitals, for Maintenance, Etc.—Continued.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
Stetson Hospital, Philadelphia -----	\$15,000 00	-----	-----	\$15,000 00
Suburban General Hospital, Bellevue -----	14,000 00	-----	1,000 00	15,000 00
Taylor Hospital Association -----	40,000 00	27,500 00	1,000 00	68,500 00
Titusville Hospital -----	40,000 00	4,000 00	-----	53,000 00
Todd Hospital, Carlisle -----	21,000 00	500 00	-----	21,500 00
Uniontown Hospital -----	142,000 00	53,000 00	-----	195,000 00
University of Pennsylvania Hospital, Philadelphia -----	950,000 00	540,000 00	-----	1,490,000 00
Warren Emergency Hospital -----	67,000 00	6,000 00	-----	73,000 00
Washington Hospital -----	54,000 00	14,000 00	-----	68,000 00
Wayne County Hospital Association, Honesdale -----	10,000 00	-----	-----	10,000 00
Waynesburg Hospital -----	24,500 00	-----	4,500 00	29,000 00
Western Pennsylvania Hospital, Pittsburgh -----	1,303,589 37	444,000 00	48,000 00	1,795,589 37
Westmoreland Hospital Association, Greensburg -----	160,000 00	15,000 00	-----	175,000 00

Statement Showing Total Appropriations to Various Hospitals, for Maintenance, Etc.—Continued.

HOSPITALS.	Maintenance.	Buildings.	Improvements, etc.	Total.
West Philadelphia General Homeopathic Hospital.....	\$38,000 00	\$5,000 00	-----	\$43,000 00
West Philadelphia Hospital for Women.....	43,000 00	2,500 00	-----	45,500 00
West Side Hospital, Scranton	106,500 00	16,750 00	-----	123,250 00
Wilkes-Barre Hospital	407,000 00	116,000 00	\$30,000 00	553,000 00
Williamsport Hospital	267,000 00	99,000 00	2,500 00	368,500 00
Wills Hospital, Philadelphia	180,000 00	115,000 00	-----	295,000 00
Women's Homeopathic Hospital Association, Philadelphia	164,300 00	75,000 00	\$2,400 00	241,700 00
Women's Hospital, Philadelphia	209,000 00	20,000 00	32,500 00	261,500 00
Women's Medical College of Pennsylvania Hospital, Phila.	114,000 00	41,000 00	-----	155,000 00
Women's Southern Homeopathic Hospital, Philadelphia..	37,000 00	-----	-----	37,000 00
Wyoming Valley Homeopathic Hospital, Wilkes-Barre.....	8,000 00	-----	-----	8,000 00
York Hospital	124,000 00	38,000 00	-----	162,000 00
Total.....	\$50,088,037 25	\$6,654,211 76	\$960,553 59	\$58,692,802 60

The total amount appropriated to Homes, not under State control, for buildings and improvements from 1850 to the end of the fiscal year, May 31, 1913, is, approximately, \$4,497,037.07.

NOTE.—The period of time covered by these appropriations varies with each institution. The Board has endeavored to secure accurate figures from the time each institution received its first appropriation down to the present time (May 31, 1913).

NOTE.—Hospitals not shown herein failed to submit statistics.

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated in Hospitals not under State Control for Year Ending May 31, 1913, From Data Collected and Prepared by the Board of Public Charities.

	Value of real estate.	Total number of beds for patients.	Number of in-patients.	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
HOSPITALS—STATISTICS.									
Adrian Hospital, Punxsutawney -----	\$65,000 00	74	759	544	67	148	51	41	---
Allegheny General Hospital -----	900,000 00	375	4,767	2,789	1,001	977	297	298	10,003
Allegheny Valley General Hospital, Tarentum -----	25,000 00	38	449	101	235	113	20	24	---
Allentown Hospital -----	218,400 00	181	1,572	1,071	63	438	81	74	---
Altoona Hospital -----	220,000 00	135	1,887	1,440	8	439	90	99	7,141
American Hospital for Diseases of Stomach, Philadelphia -----	40,000 00	47	765	69	415	281	22	31	5,089
American Oncologic Hospital, Philadelphia -----	47,411 63	18	73	16	46	11	10	10	76
Barnes, Simon H., Memorial Hospital, Susquehanna -----	14,000 00	16	117	24	50	43	6	8	67
Beaver Valley General Hospital, New Brighton -----	53,461 05	58	665	85	473	107	32	29	---
Belleville Hospital -----	25,000 00	50	420	232	104	84	28	27	---
Berwick Hospital -----	600 00	18	232	137	11	84	10	7	1,563

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.									
	Value of real estate.	Total number of beds for patients.	Number of in-patients.	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of in-patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
Blair, J. C., Memorial Hospital and Training School for Nurses, Huntington -----	\$130,000 00	51	331	97	73	161	22	23	---
Braddock General Hospital -----	95,000 00	70	1,006	258	538	210	44	39	175
Bradford Hospital -----	117,091 54	85	1,286	393	56	837	62	54	---
Brownsville General Hospital (not yet in operation)-----	10,500 00	---	---	---	---	---	---	---	---
*Bryn Mawr Hospital -----	290,000 00	62	895	646	109	140	45	39	4,531
Buhl, Christian H., Hospital, Sharon -----	56,144 03	60	703	127	415	161	58	55	---
Butler County General Hospital-----	61,000 00	51	703	229	436	38	35	32	---
*Cambria Iron Company's Hospital, Johnstown-----	28,000 00	50	602	526	---	76	32	29	7,045
Cannonsburg General Hospital -----	12,000 00	11	119	11	4	104	8	4	---
Carbondale Hospital -----	58,000 00	44	701	326	26	349	37	27	369
Chambersburg Hospital -----	40,416 64	40	385	192	93	100	24	23	---
Charity Hospital, Norristown -----	77,433 13	54	710	546	---	164	36	32	572
Chester Hospital -----	95,011 12	125	1,905	1,324	---	581	85	94	3,498

*Does not receive State aid.

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.	Value of real estate.	Total number of beds for patients.	Number of in-patients.	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of pay patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
Chester County Hospital, West Chester-----	\$93,000 00	100	1,401	933	15	453	57	57	---
Chestnut Hill Hospital, Philadelphia-----	83,216 68	40	402	118	54	230	23	28	439
Children's Homopathic Hospital, Philadelphia-----	251,314 26	174	1,738	1,231	296	111	83	75	24,951
Children's Hospital, Philadelphia-----	355,000 00	73	1,607	1,607	---	---	54	63	4,330
Children's Hospital, Pittsburgh-----	72,307 51	100	442	442	---	---	62	87	3,710
City Hospital Association of Washington-----	37,600 00	40	640	247	148	245	32	26	---
Clearfield Hospital-----	40,825 24	46	735	198	227	310	16	34	19
Coatesville Hospital-----	30,000 00	30	384	290	87	7	25	20	---
Columbia Hospital-----	55,000 00	50	331	208	111	12	34	34	1,083
Columbia Presbyterian Hospital, Wilkinsburg-----	400,000 00	166	1,458	523	271	764	78	86	95
Conemaugh Valley Hospital, Johnstown-----	100,000 00	131	2,041	1,052	100	889	103	83	---
Corry Hospital-----	28,000 00	40	470	218	211	41	22	11	70
Douglass, Frederick, Hospital, Philadelphia-----	75,000 00	65	427	187	200	40	20	22	5,559

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.	Value of real estate.	Total number of beds for patients.	Number of in-patients	Number of in-patients treated partly free.	Number of in-patients treated free.	Number of pay patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
DuBois Hospital -----	\$15,000 00	20	344	144	99	101	15	9	-----
Easton Hospital -----	88,000 00	100	1,091	696	173	222	61	73	3,566
Elk County General Hospital, Ridgway-----	65,800 00	40	550	93	-----	457	26	20	-----
*Episcopal Hospital, Philadelphia -----	651,920 87	425	4,599	3,915	342	342	299	285	-----
Eye and Ear Hospital, Pittsburgh-----	130,000 00	43	1,592	414	548	630	33	24	16,401
*Fabiana Italian Hospital, Philadelphia-----	-----	28	198	21	14	163	17	21	4,262
Frankford Hospital, Philadelphia -----	162,647 44	70	1,087	801	154	132	54	52	5,481
Franklin Hospital -----	32,248 12	30	265	81	-----	134	14	15	-----
Garrettson Hospital, Philadelphia -----	200,000 00	27	448	220	38	190	18	27	10,553
General Emergency Hospital, Pittsburgh-----	86,000 00	70	366	148	151	67	14	12	-----
German Hospital, Philadelphia -----	1,350,000 00	257	3,645	1,504	135	2,006	173	175	8,260
*Germantown Hospital, Philadelphia -----	210,000 00	150	1,924	1,624	-----	300	104	112	7,334
Good Samaritan Hospital, Lebanon-----	48,582 57	50	411	335	10	66	23	21	425

*Does not receive State aid.

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.									
	Value of real estate.	Total number of beds for patients.	Number of in-patients	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of pay patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
Greenville Hospital -----	\$15,000 00	16	159	48	27	84	12	11	93
Grove City Hospital -----	10,000 00	15	152	39	113	-----	8	5	3
Gynceean Hospital, Philadelphia -----	30,000 00	45	458	211	166	81	28	26	1,127
Hahnemann Hospital, Philadelphia -----	-----	300	3,918	2,498	450	1,000	174	194	11,744
Hahnemann Hospital, Scranton -----	175,000 00	83	909	626	18	265	57	34	586
Hamot Hospital, Erie -----	148,888 21	100	2,311	846	1,038	427	65	58	-----
Harrisburg Hospital -----	181,162 67	105	1,914	1,151	26	737	75	67	5,717
Harrisburg Polyclinic Hospital -----	12,000 00	-----	72	62	20	-----	5	5	161
Homeopathic Medical and Surgical Hospital, Pittsburgh -----	508,112 52	157	2,867	1,963	540	464	134	110	11,261
Homeopathic Hospital, Reading -----	92,000 00	80	1,172	898	129	145	41	45	3,244
Homestead Hospital -----	36,000 00	45	504	264	52	188	20	29	227
Howard Hospital, Philadelphia -----	140,000 00	80	1,089	625	50	414	50	44	40,384
Jefferson Hospital, Philadelphia -----	1,235,000 00	338	6,010	3,873	814	1,323	260	268	24,454

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.									
	Value of real estate.	Total number of beds for patients.	Number of in-patients	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of pay patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
Jewish Hospital, Philadelphia -----	\$750,000 00	180	2,260	1,551	384	\$75	128	152	4,353
*Jewish Maternity Hospital, Philadelphia-----	12,000 00	26	497	376	40	81	19	18	14
Johnstown City Hospital -----	20,000 00	20	251	95	64	92	15	18	-----
Kane Summit Hospital -----	68,450 25	56	541	154	340	47	28	24	39
Kensington Hospital for Women, Philadelphia-----	100,000 00	50	692	400	210	82	25	32	643
Kittanning Hospital -----	20,000 00	15	164	66	13	85	8	6	1,532
Lancaster General Hospital -----	175,000 00	125	2,038	794	815	459	80	96	648
Latrobe Hospital -----	24,407 95	28	239	69	135	35	15	17	-----
Lewistown Hospital -----	60,531 00	37	338	193	69	76	19	21	-----
*Lincoln Memorial Hospital, Pittsburgh -----	-----	14	98	80	11	7	10	8	140
Lock Haven Hospital -----	80,000 00	60	898	445	154	209	44	42	59
*Magee, Elizabeth Steel, Maternity Hospital, Pittsburgh--	315,000 00	65	659	617	7	35	47	49	23
Markleton General Hospital -----	-----	40	94	72	22	-----	14	10	110

*Does not receive State aid.

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.

	Value of real estate.	Total number of beds for patients.	Number of in-patients	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of pay patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
Maternity Hospital, Philadelphia -----	\$40,432 46	30	148	136	3	9	18	15	---
McKeesport Hospital -----	250,585 56	160	2,163	571	906	626	117	106	---
Meadville City Hospital -----	76,500 00	60	700	39	523	138	29	27	---
Medico-Chirurgical Hospital, Philadelphia -----	1,595,000 00	239	3,037	1,452	1,028	557	139	160	79,918
*Mercy Hospital of Altoona -----	15,000 00	24	404	98	---	306	15	20	224
*Mercy Hospital, Johnston -----	75,273 68	39	339	103	50	186	30	34	53
Mercy Hospital and Nurse School, Philadelphia -----	11,000 00	20	256	41	17	198	14	8	1,924
Mercy Hospital, Pittsburgh -----	1,000,000 00	360	5,736	1,768	2,669	1,299	326	334	3,050
Mercy Hospital, Wilkes-Barre -----	168,000 00	125	1,541	1,099	247	195	80	71	582
*Methodist Hospital, Philadelphia -----	579,133 78	160	1,908	---	---	1,908	96	97	7,681
Mid-Valley Hospital, Blakely (not yet in operation) -----	2,353 86	---	---	---	---	---	---	---	---
Miners' Hospital, Spangler -----	23,507 46	26	398	111	106	181	22	29	3
Monongahela Hospital, Monongahela -----	17,500 00	42	367	168	159	40	24	16	---

*Does not receive State aid.

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

	Value of real estate.	Total number of beds for patients.	Number of in-patients	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of pay patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
Monroe County Hospital, Stroudsburg -----	\$7,500 00	11	96	20	---	76	7	9	---
Montefiore Hospital, Pittsburgh -----	125,000 00	59	1,144	478	432	234	47	38	620
Mt. Pleasant Hospital -----	62,903 33	60	548	316	95	137	32	30	---
Mount Sinai Hospital, Philadelphia -----	108,323 07	53	1,143	963	172	8	50	48	50,490
Nanticoke Hospital -----	53,746 35	48	337	251	56	30	11	9	50
Nason Hospital, Roaring Spring -----	45,000 00	40	317	148	139	30	17	21	---
New Castle Hospital -----	55,000 00	26	391	140	96	155	23	17	---
North Penna. General Hospital and Sanatorium, Austin-----	15,000 00	27	111	42	69	---	9	4	---
Northwestern General Hospital, Philadelphia-----	16,000 00	32	362	72	170	120	12	19	3,318
Ohio Valley Hospital, McKees Rocks-----	50,000 00	60	603	113	407	83	27	25	96
Oil City Hospital -----	66,660 74	44	455	100	70	285	26	29	---
Packer, Mary M., Hospital, Sunbury-----	50,000 00	30	359	250	50	59	17	16	79
Packer, Robert, Hospital, Sayre -----	150,000 00	106	1,717	1,088	333	296	85	97	3,123

HOSPITALS—STATISTICS.

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.	Value of real estate.	Total number of beds for patients.	Number of in-patients.	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
Panther Creek Hospital, Coal Dale -----	\$57,000 00	43	488	486	-----	2	37	40	1,553
Passavant Hospital, Pittsburgh -----	200,000 00	84	1,468	395	97	976	64	58	2,440
Penna. Epileptic Hospital and Colony Farm, Oakburne-----	109,817 64	90	96	71	18	7	80	76	-----
*People's Co-operative Hospital, Sayre -----	13,700 00	38	353	80	34	239	14	9	29
Philadelphia Lying-in Charity Hospital, Philadelphia-----	60,000 00	75	453	254	178	21	27	30	2,837
Philadelphia Orthopaedic Hospital -----	265,000 00	126	699	310	105	284	99	98	22,605
Philadelphia Polyclinic Hospital -----	347,661 33	108	1,698	923	473	302	70	81	85,683
Phoenixville Hospital -----	80,000 00	75	425	297	78	50	22	24	339
Pittsburgh Hospital (Sisters of Charity)-----	500,000 00	100	1,614	571	718	325	87	80	4,095
Pittston Hospital -----	62,000 00	44	410	315	69	26	23	15	213
Pottstown Hospital -----	65,300 55	40	367	216	42	109	25	24	135
Pottsville Hospital -----	164,500 00	100	1,737	1,459	104	174	84	90	888
*Presbyterian Hospital, Philadelphia -----	762,879 32	236	2,742	1,375	395	972	140	158	6,088

*Does not receive State aid.

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.

	Value of real estate.	Total number of beds for patients.	Number of in-patients	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of pay patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
Presbyterian Hospital, Allegheny -----	\$379,907 36	100	1,819	592	481	746	88	82	710
Providence Hospital, Beaver Falls -----	83,000 00	26	397	154	54	189	16	16	30
Punxsutawney Hospital -----	52,000 00	34	951	312	191	448	26	21	639
Ratti, Joseph, Hospital, Bloomsburg -----	37,500 00	16	266	108	15	143	-----	16	69
Reading Hospital -----	190,000 00	130	1,237	874	22	391	7	78	3,211
Renovo Hospital -----	20,000 00	13	195	46	19	130	8	5	29
Rochester General Hospital -----	41,532 02	38	486	185	245	56	20	20	30
Roosevelt Hospital, Philadelphia -----	-----	43	613	520	64	29	26	27	6,782
*Salvation Army Hospital, Philadelphia -----	25,000 00	70	-----	-----	-----	-----	61	62	-----
St. Agnes' Hospital, Philadelphia -----	555,000 00	243	3,259	1,745	-----	1,514	147	148	12,038
St. Christopher's Hospital for Children, Philadelphia -----	40,000 00	55	1,095	785	240	-----	37	37	4,430
St. Francis' Hospital, Pittsburgh -----	2,225,000 00	560	3,350	1,273	625	1,492	292	290	3,117
St. John's Hospital, Allegheny -----	246,000 00	125	1,305	406	-----	899	46	36	1,310
*St. Joseph's Hospital, Lancaster -----	250,000 00	109	712	212	42	458	59	35	180

*Does not receive State aid.

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.									
	Value of real estate.	Total number of beds for patients.	Number of in-patients	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of pay patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
St. Joseph's Hospital, Philadelphia -----	\$200,000 00	180	2,909	1,172	607	1,130	131	158	32,212
St. Joseph's Hospital, Pittsburgh -----	175,000 00	74	746	338	249	159	40	46	1,545
St. Joseph's Hospital, Reading -----	200,000 00	135	1,334	954	206	174	77	84	1,148
St. Luke's Hospital, Bethlehem -----	256,910 00	83	1,548	1,087	300	161	62	66	1,075
St. Luke's Homeopathic Hospital, Philadelphia -----	132,000 00	55	1,033	723	236	74	44	39	7,694
*St. Margaret's Memorial Hospital, Pittsburgh-----	324,380 00	80	797	637	-----	160	55	53	564
St. Mary's Hospital, Philadelphia -----	162,000 00	143	2,131	1,856	92	183	78	76	8,081
St. Timothy's Hospital, Philadelphia -----	196,115 33	75	1,073	840	43	190	51	57	1,465
St. Vincent's Hospital, Erie -----	358,582 68	200	1,889	850	290	749	80	61	630
Samaritan Hospital, Philadelphia -----	278,450 00	142	2,831	1,816	383	632	119	110	6,449
Sewickley Valley Hospital Association, Sewickley-----	115,089 92	49	494	114	241	139	33	14	39
Shenango Valley Hospital, New Castle -----	92,252 11	100	866	117	531	218	43	44	-----
South Side Hospital, Pittsburgh -----	411,830 31	250	2,417	703	829	885	108	121	2,750
Spencer Hospital, Meadville -----	40,000 00	40	524	112	393	19	22	23	-----

*Does not receive State aid.

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.

	Value of real estate.	Total number of beds for patients.	Number of in-patients	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of pay patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
Springdale General Hospital -----	\$1,500 00	18	165	20	116	29	9	6	6
Stetson Hospital, Philadelphia -----	120,000 00	55	1,028	438	32	558	43	40	7,864
Suburban General Hospital, Bellevue -----	66,500 00	76	551	91	284	176	24	36	-----
Taylor Hospital Association -----	45,000 00	30	222	236	86	-----	23	21	141
Titusville Hospital -----	28,170 53	25	256	53	141	62	11	10	11
Todd Hospital, Carlisle -----	7,500 00	9	73	27	26	20	-----	3	1
Uniontown Hospital -----	98,990 45	84	976	501	375	100	54	57	-----
University of Pennsylvania Hospital, Philadelphia -----	1,078,862 04	386	5,476	3,330	-----	2,146	279	319	15,143
Warren Emergency Hospital -----	94,725 00	83	663	157	367	139	28	34	-----
Washington Hospital -----	67,500 00	60	508	212	16	280	27	23	25
Waynesburg Hospital -----	-----	23	228	64	67	97	8	12	28
Western Pennsylvania Hospital, Pittsburgh -----	1,115,000 00	400	4,109	2,148	1,124	837	258	337	1,461
Westmoreland Hospital Association, Greensburg -----	110,000 00	76	1,064	432	236	396	52	51	-----
West Philadelphia General Homeopathic Hospital -----	35,934 40	40	720	485	46	189	25	17	17,133

Statement Showing Value of Real Estate, Beds Occupied and Patients Treated, Etc.—Continued.

HOSPITALS—STATISTICS.

	Value of real estate.	Total number of beds for patients.	Number of in-patients	Number of in-patients treated free.	Number of in-patients treated partly free.	Number of pay patients.	Average number of beds occupied during year.	Number of beds occupied May 31, 1912.	Number of dispensary patients.
West Philadelphia Hospital for Women.....	\$83,124 32	60	728	289	34	415	24	52	2,898
West Side Hospital, Scranton	80,000 00	42	894	848	13	33	38	31	1,043
Wilkes-Barre Hospital	215,000 00	158	2,094	1,430	399	265	92	103	771
Williamsport Hospital	225,000 00	162	1,608	1,128	76	404	98	106	159
Wills Hospital, Philadelphia	209,000 00	100	1,046	1,046	-----	-----	64	74	14,780
*Windber Hospital	60,000 00	48	249	235	14	-----	16	9	420
Women's Homeopathic Hospital Association, Philadelphia	225,000 00	125	1,301	1,151	79	71	44	67	42,982
Women's Hospital, Philadelphia	400,000 00	180	2,043	842	783	418	111	114	6,753
Women's Medical College of Pennsylvania Hospital, Phila.	123,742 19	44	864	431	365	68	33	31	6,005
Women's Southern Homeopathic Hospital, Philadelphia..	40,000 00	39	452	204	184	64	25	23	1,088
Wyoming Valley Homeopathic Hospital, Wilkes-Barre.....	37,029 29	30	267	170	29	68	13	17	815
York Hospital	75,000 00	70	960	616	116	228	52	66	927
Total.....	\$20,696,952 51	14,773	181,954	97,723	34,838	49,393	9,308	9,509	708,009

NOTE.—Hospitals not shown herein failed to submit statistics.

PROPOSED DEPARTMENT OF STATE CHARITABLE INSTITUTIONS.

Your Committee in its report of 1911 recommended the creation of a Department of State Charitable Institutions, and presented a draft of an Act for that purpose. The Legislature of 1905 had passed a well considered bill creating such a department, which was vetoed by the Governor on the ground, in part, that its work overlapped that of the Board of Public Charities, which Board nevertheless was not abolished. A comparison of that bill with the law then existing shows that the Board of Public Charities still had many important lines of work, including the duties of the Committee on Lunacy, and the visitation of correctional and reformatory institutions, both State and local.

The argument in favor of such a department is that the Board of Public Charities as now constituted is composed of business men who serve gratuitously, who are scattered over the Commonwealth and have many other duties. While their service has been devoted and unselfishly given, they cannot be expected to give all of their time to that work, nor can they become as efficient in some of the activities connected with the subject as a permanent official or official force. For lack of such a central authority as this, the building of new State institutions has been committed in each case to a special commission. Nor is the Board able to obtain from the Legislature the appropriations necessary to properly perform their duties. It is proposed also to commit to such a department the whole question of the supervision of appropriations to charity, both for institutions privately managed, and those owned and managed by the Commonwealth. This work is now done by the Board of Public Charities.

It has been suggested that such a Department when created would take over the entire present work of the

Board of Public Charities and the Committee on Lunacy in the supervision of the management of institutions, the care of lunatics and the like, and that one of the most important features, which would undoubtedly result in greater economy in administration, would be the purchase of supplies which are needed in quantity by all institutions of charity and correction, both public and private, and that the quantity purchased and the superior experience of the purchasing agent would be of advantage.

Admonished by the rejection two years ago of its proposition for such a department, your Committee has given further special attention to the public desires on this point. It must be said that the complaints are few which have foundation in specific facts and are not the mere prejudices of specially interested persons. From the tables of figures which will be found in this report at page 96 it appears that the money now appropriated by the Commonwealth is administered with reasonable economy by private institutions. That these institutions often have empty beds is not a reproach, but an advantage. Better that the Commonwealth should be over-equipped to take care of the suffering than that any poor sick person should lack accommodation, or that the emergency of an epidemic or great disaster should find us unprepared. We must not forget that we are dealing with charity, and that the charity which counts the dollars and them alone is not the best, either for those who receive or those who give.

The whole system in Pennsylvania has been for so many years founded upon private effort and private management that it does not seem right to set our faces the other way unless new and substantial grounds of objection appear. The creation of a State Department would inevitably result in a centralizing of institutions and a decrease in their number, as well as in a centralizing of management. The benefit of the small hospital close to the scene of suffering and accident is incalculable. Only the other day the public prints gave

an account of the overcoming of firemen by smoke in Pittsburgh. It so happened that a hospital only a few blocks away had recently been equipped with "Pulmotors," a device for freeing from poisonous gases the lungs of those who had been suffocated, and pumping oxygen into them. The firemen were rushed to the hospital, the device applied, and all recovered. If the aid given had been any less instant, and the men had been carried a long distance to a hospital or to one not so equipped death would have ensued.

Local management also is a vitalizing encouragement to local giving by individuals. The practice of interesting as trustees of institutions those who will be able to give as well as those who will be able to direct is not without its usefulness. Even a practice of State purchase of supplies for institutions all over the State, while it might tend to economy, would also discourage individual giving. The Committee has been informed that it frequently happens that those from whom a hospital purchases supplies return all their profits and more in donations to the institution. When other States are following our example in appropriating to privately managed charities and in permitting private enterprise to provide a greater part of charitable relief, it would be unwise to discontinue the system in which we have taken the lead.

Your Committee believes that State aid is a great encouragement to private charity, and does not stifle it. There is abundant evidence to justify this conclusion, and while there may be a very few instances to the contrary they are but the exceptions which prove the rule.

Accordingly, your Committee modifies its previous recommendations in this regard.

The wise plan would be to avail ourselves of the merits of both systems. The present Board of Public Charities should be properly equipped with salaried officers to do, (more fully than the present members and their salaried assistants can find the actual days of time to do it,) the actual inspection of institutions. To this Board, composed

of disinterested men giving their services from love of the work, should be committed supervision of the human side of the management of hospitals and asylums; that is, the details of care and treatment, discharge and transfer of inmates and the like. To a permanent State Department should be committed the licensing of private institutions, approval of the plans for new buildings of private hospitals and the erection of new public buildings, and particularly the standardization of accounts and administrative methods of all which receive State aid, to ensure that State money is not only spent upon the objects for which it is appropriated, but is wisely so spent. Inseparably connected with this would be the preparation of a schedule of appropriations recommended to private and public institutions.

If this plan commends itself to the Legislature the Committee will draft an act to carry it into effect.

B. NECESSITY OF INCREASING STATE EXPENDITURES.

Your Committee renews the recommendation of the report of 1911 for additional revenue for better roads. The Legislature of 1911 adopted the resolution prepared by the Committee for a constitutional amendment authorizing the issue of bonds for this purpose. (See pages 4, 192.) There has been some objection, especially by the State Grange, to the creation of a State debt as a means of revenue for highway improvements, those so objecting contending that additional taxes should be levied therefor, and that the constantly increasing taxes under present laws, effectually enforced, will be sufficient for all reasonable expenditures in that behalf.

There is no doubt that much additional revenue can be so raised, as will be hereafter shown, but the consensus of opinion would seem to be that reliance upon such a source would unreasonably delay the accomplishment so much to be desired and so generally demanded, and a bond issue, as elsewhere referred to, seems inevitable.

HIGHWAYS.

Since the organization of the State Highway Department in 1903 we have spent \$13,500,000 for State highways upon a total mileage of 86,593.

The following tables (see page 139) show the improved and unimproved roads of the Commonwealth outside of Philadelphia in December of 1910, and the roads reconstructed or resurfaced under Acts of 1905, 1907, 1909 and 1911 by the State Highway Department up to January, 1913.

More definite information that Department declares itself unable to furnish, but there is sufficient to show that while some progress has been made there is a vast amount of work yet to be done.

Mileage of Public Roads.

	Improved.	Unimproved.	Total.
1 Adams -----	7.35	1,058.61	1,065.96
2 Allegheny -----	289.01	1,384.29	1,673.30
3 Armstrong -----	14.39	1,708.75	1,723.14
4 Beaver -----	10.03	1,099.18	1,109.21
5 Bedford -----	17.08	1,707.97	1,725.05
6 Berks -----	131.00	2,293.10	2,424.10
7 Blair -----	39.70	696.15	735.85
8 Bradford -----	24.07	2,437.85	2,461.92
9 Bucks -----	87.84	1,678.50	1,766.34
10 Butler -----	15.57	1,815.86	1,831.43
11 Cambria -----	10.21	1,143.74	1,153.95
12 Cameron -----	1.59	148.74	150.33
13 Carbon -----	12.17	500.18	512.35
14 Centre -----	9.30	1,048.98	1,058.28
15 Chester -----	170.09	2,366.02	2,536.11
16 Clarion -----	6.73	1,367.22	1,373.95
17 Clearfield -----	17.09	1,682.80	1,699.89
18 Clinton -----	8.44	566.41	574.85
19 Columbia -----	6.67	1,264.44	1,271.11
20 Crawford -----	16.55	2,150.52	2,167.07
21 Cumberland -----	13.28	1,212.30	1,225.58
22 Dauphin -----	14.50	1,032.05	1,046.55
23 Delaware -----	220.15	310.31	530.46
24 Elk -----	5.50	537.39	542.89
25 Erie -----	18.92	1,647.52	1,666.44
26 Fayette -----	15.02	1,659.53	1,674.55
27 Forest -----	3.79	370.66	374.45
28 Franklin -----	58.25	1,175.41	1,233.66
29 Fulton -----		683.41	683.41
30 Greene -----	14.00	1,484.77	1,498.77
31 Huntingdon -----	19.28	1,302.95	1,322.23
32 Indiana -----	18.59	1,911.10	1,929.69
33 Jefferson -----	9.81	1,210.15	1,219.96
34 Juniata -----		771.95	771.95

Mileage of Public Roads—Continued.

	Improved.	Unimproved.	Total.
35 Laekawanna -----	5.00	744.01	749.01
36 Lancaster -----	216.25	2,574.50	2,790.75
37 Lawrence -----	9.36	855.76	865.12
38 Lebanon -----	108.00	722.77	830.77
39 Lehigh -----	25.52	1,175.22	1,200.74
40 Luzerne -----	47.07	1,520.04	1,567.11
41 Lycoming -----	15.60	1,655.38	1,670.98
42 McKean -----	9.60	741.30	750.90
43 Mereer -----	18.77	1,608.10	1,626.87
44 Mifflin -----	6.66	499.79	506.45
45 Monroe -----	20.53	941.69	962.22
46 Montgomery -----	410.17	1,432.09	1,842.26
47 Montour -----	1.94	355.85	357.79
48 Northampton -----	26.30	1,047.16	1,073.46
49 Northumberland -----	12.18	1,166.14	1,178.32
50 Perry -----	1.55	997.35	998.90
51 Pike -----	5.00	546.73	551.73
52 Potter -----	11.09	1,124.15	1,135.24
53 Schuylkill -----	10.42	1,353.27	1,363.69
54 Snyder -----	2.05	785.80	787.85
55 Somerset -----	10.93	2,147.01	2,157.94
56 Sullivan -----	3.16	549.21	552.37
57 Susquehanna -----		1,993.12	1,993.12
58 Tioga -----	19.82	1,789.60	1,809.42
59 Union -----	4.78	488.97	493.75
60 Venango -----	10.63	1,154.92	1,165.55
61 Warren -----	13.40	1,061.57	1,074.97
62 Washington -----	22.07	2,165.35	2,187.42
63 Wayne -----	1.51	1,436.21	1,437.72
64 Westmoreland -----	24.70	2,737.29	2,761.99
65 Wyoming -----	1.55	741.10	742.65
66 York -----	18.44	2,653.60	2,672.04
Total -----	2,400.02	84,193.86	86,593.88

Statement of Roads Reconstructed or Resurfaced under Acts of 1905, 1907, 1909, 1911 by Pennsylvania State Highway Department, January 1, 1913.

County.	Number miles reconstructed road, fully or partially completed.	Number miles road resurfaced.	Total number miles reconstructed or resurfaced road.
1 Adams -----	12.26	2.7	14.96
2 Allegheny -----	16.66	8.0	24.66
3 Armstrong -----	16.60	-----	16.60
4 Beaver -----	10.79	-----	10.79
5 Bedford -----	15.24	18.66	33.90
6 Berks -----	16.60	-----	16.60
7 Blair -----	23.48	4.953	28.433
8 Bradford -----	25.55	-----	25.55
9 Bucks -----	42.60	-----	42.60
10 Butler -----	15.52	-----	15.52
11 Cambria -----	11.14	4.55	15.69
12 Cameron -----	1.60	-----	1.60
13 Carbon -----	5.64	1.00	6.64
14 Centre -----	10.62	10.10	20.72
15 Chester -----	40.78	7.9	48.68
16 Clarion -----	9.52	-----	9.52
17 Clearfield -----	21.56	-----	21.56
18 Clinton -----	9.58	-----	9.58
19 Columbia -----	7.48	-----	7.48
20 Crawford -----	16.55	-----	16.55
21 Cumberland -----	15.80	6.00	21.80
22 Dauphin -----	11.72	3.80	15.52
23 Delaware -----	12.24	-----	12.24
24 Elk -----	6.08	-----	6.08
25 Erie -----	25.68	-----	25.68
26 Fayette -----	27.50	-----	27.50
27 Forest -----	3.60	-----	3.60
28 Franklin -----	17.50	11.1	28.60
29 Fulton -----	3.04	-----	3.04
30 Greene -----	16.92	-----	16.92
31 Huntingdon -----	20.10	-----	20.10
32 Indiana -----	22.50	-----	22.50
33 Jefferson -----	13.88	-----	13.88

Statement of Roads Reconstructed or Resurfaced—Continued.

County.	Number miles recon- structed road, fully or partially completed.	Number miles road resurfaced.	Total number miles recon- structed or resurfaced road.
34 Juniata -----	7.44		7.44
35 Lackawanna -----	6.05	2.48	8.53
36 Lancaster -----	35.70		35.70
37 Lawrence -----	9.26		9.26
38 Lebanon -----	11.02		11.02
39 Lehigh -----	17.34	1.12	18.46
40 Luzerne -----	23.54		23.54
41 Lycoming -----	19.46	.466	19.926
42 McKean -----	11.15		11.15
43 Mercer -----	26.42		26.42
44 Mifflin -----	10.92		10.92
45 Monroe -----	21.92		21.92
46 Montgomery -----	30.68		30.68
47 Montour -----	2.28		2.28
48 Northampton -----	10.50		10.50
49 Northumberland -----	21.75	2.0	23.75
50 Perry -----	1.55		1.55
51 Pike -----	5.00		5.00
52 Potter -----	16.60		16.60
53 Schuylkill -----	13.52		13.52
54 Snyder -----	5.04		5.04
55 Somerset -----	19.15	20.5	39.65
56 Sullivan -----	5.12		5.12
57 Susquehanna -----	9.75		9.75
58 Tioga -----	21.55		21.55
59 Union -----	8.22		8.22
60 Venango -----	14.50		14.50
61 Warren -----	13.50	.643	14.143
62 Washington -----	32.88	2.29	35.17
63 Wayne -----	15.18		15.18
64 Westmoreland -----	32.87	31.5	64.37
65 Wyoming -----	2.62		2.62
66 York -----	28.84		28.84
Total-----	1,037.65	137.962	1,175.612

Our neighbors are spending large amounts of money upon the roads. New York amended her constitution in 1905 so as to permit her to borrow money for this purpose. Under this provision she has authorized two bond issues for \$50,000,000 each, the first being effective January 1, 1906, and the second on November 5, 1912. Before these bond issues the Legislature had appropriated for highway improvement since 1898 the sum of \$3,223,255, and since that time to October 1, 1912, various amounts from the first bond issue until the whole \$50,000,000 had been made available for construction purposes. For the last ten years the amount so appropriated has been \$53,000,000. These figures relate only to construction and not to maintenance and repair. To the latter purposes the State also appropriates large sums. In particular that State pays fifty per cent. of the amount raised by towns and counties for the maintenance and improvement of certain town and country roads.

Maryland in 1908 authorized a five million dollar bond issue for the construction of State highways, and, in 1910, authorized an additional million dollar bond issue for the construction of a boulevard between Annapolis and Baltimore and the purchase of certain bridges. The Legislature of 1908 authorized an additional bond issue of \$3,170,000. The last four Legislatures have appropriated \$540,000 for a boulevard between Baltimore and Washington. In 1904 there was appropriated \$200,000, and 1912, \$300,000 for State aid to roads.

The Commissioner of Public Roads of New Jersey had available in 1911 for road maintenance and construction \$1,135,682.46. Between 1892 and 1911 State aid to the extent of \$3,230,336.51 has been granted in the construction of 1,578 miles of roads. No bonds have been issued.

California is now expending an \$18,000,000 bond issue upon the roads, and in Maine an issue of \$2,000,000 has been authorized, to be met by fee for automobile licenses. Ohio proposed an issue of bonds, but it was defeated at the polls.

SCHOOLS.

Schools also demand increased expenditures. The State Normal Schools claim that they should receive more State money. If sold to the Commonwealth, to the expense of exclusive conduct of these institutions must be added the purchase price. The common school appropriations should be increased not only to give greater efficiency in the management of the schools, but to relieve the local taxes. One of the requests of the Pennsylvania State Grange to your Committee was that the State pay the minimum wage to public school teachers for the minimum term. This would necessitate the expenditure of \$40 per month for an average school year of nearly $8\frac{1}{2}$ months, for 36,945 teachers, or the sum of \$12,561,300. If \$50 per month were paid, it would require \$15,701,625. For the year ending June, 1911, the total paid by the Commonwealth for this purpose was \$995,147.59, and for the year ending June, 1912, the total was \$1,023,853.41. The common school appropriation for each of the last two appropriation years was \$7,500,000. If the Commonwealth assumed these wages of school teachers it would mean an increase of from \$5,000,000 to \$8,500,000 per year, and, as this is too great a burden for the Commonwealth to bear even with the increased revenue, this specific relief is not presently possible. But some substantial advance in that direction must shortly be made.

Your attention is specially directed to "A Comparative Study of Public School Systems in the Forty-eight States," published by the "Russell Sage Foundation," a copy of which will be received by each member of the Legislature. This "study" shows that Pennsylvania ranks twenty-third in general efficiency among the systems of the Union. In current expenditures per child of school age this Commonwealth takes twenty-sixth place. In average attendance we rank eighth. In general all-around efficiency Washington is first; Massachusetts, second, and New York, third.

It is not to the credit of our Commonwealth that we should be so far down in such a list, and if we are to attain the position to which our wealth and citizenship entitles us this subject must receive prompt, serious and generous consideration. "No other investment produces so large a return. More money means better schools, better schools mean more efficient citizens, more efficient citizens produce more money—it is a beneficent circle."

The report just made to the Governor by the State Board of Education gives particulars of the directions in which money is needed for the schools. An increased appropriation of \$5,000,000 is asked for. The principal expenses would be in the creation of a permanent State school fund and the purchase of the State normal schools. There are thirteen of the latter, with property worth \$5,702,356, against which the Commonwealth holds liens for \$1,571,086. The new School Code has provided admirably efficient means of expending this money and only the money itself is lacking. The local school tax rate is all that the taxpayers can bear. Your Committee strongly urges that educational advantages should be the same for each child, irrespective of the wealth of the community in which he lives. This can only be accomplished by State appropriations, and when the schools are thus equalized there will be no more removals of families from the country to the city, or from a poor to a wealthy school district, to get the proper education for their children.

NEW STATE INSTITUTIONS

Many of the new State institutions, the need for which was discussed in the report of 1911, have been or are nearly completed in accordance with the recommendations therein contained. Notable among these are:

The State Hospital for Injured Persons of the Trevorton, Shamokin and Mt. Carmel Coal Fields, at Shamokin, authorized by the Act of June 13, 1907, P. L. 699, was opened for the reception of patients on January 8, 1912.

Present capacity, 42. Number of patients on May 31, 1912, 46.

The State Hospital of Nanticoke, Luzerne County, has just been taken over by the State, under the Act of June 14, 1911, P. L. 933. Bed capacity, 48. Number of patients in hospital May 31, 1912, 9.

The State Hospital of Coaldale, Schuylkill County, formerly Panther Creek Valley Hospital, has just been taken over by the State, under the Act of June 14, 1911, P. L. 931. Bed capacity, 43. Number of patients on May 31, 1912, 40.

The Homeopathic State Hospital for the Insane, Rittersville, was opened October 3, 1912. At present this hospital has 568 insane patients. Eventually the bed capacity will be 1,200.

The State Hospital for the Criminal Insane, at Farview, Wayne County, was opened December 16, 1912, and to-day has 67 patients. As Farview is not entirely finished we cannot give the bed capacity.

Your Committee cannot forbear repeating, however, its comment upon the wasteful method by which these institutions were erected, to wit: The appropriation of a small sum, comparatively speaking, the partial completion of the institution during the two years that the sum lasted, and a repetition of the process upon the several occasions of the sessions of the Legislature, until by the time the buildings were completed the capital first put into them had laid idle for years, and the buildings themselves, by reason of slow construction and lack of protection, had in many cases deteriorated. With a State Department to supervise the erection of these buildings, instead of a separate commission of volunteer citizens for each one, the work of building would be vigorous and continuous. Yet it will not be under any system, unless the funds are supplied by the Commonwealth exactly as they are needed, and there is no practical reason why this cannot be done.

WEAK-MINDED AND EPILEPTIC.

The weak-minded and epileptic are not yet sufficiently cared for. The institution at Spring City is now devoted entirely to the weak-minded. The number of these, however, is very great, and with the advance of science it is more and more coming to be recognized that a large part of our criminal classes should be included among them. It has been estimated that there are 18,000 such persons in Pennsylvania alone, and they are in every way a menace to society. The Commission appointed by the Legislature of 1911, as elsewhere pointed out, is giving careful thought to this matter.

It is certain, however, that whatever form their recommendation shall take, it will mean increased State expenditure for institutions to meet this need.

The same conditions apply to the epileptic, an institution caring for seven or eight hundred is now needed. A farm colony for epileptics could be connected with either Polk or Spring City. There are now in the insane hospitals from twenty-five hundred to three thousand epileptics, most of whom are insane or feeble-minded.

TUBERCULOUS INSANE.

The tuberculous insane form another class needing isolation from the community and from other suffering ones. The present hospital at Wernersville would be splendidly adapted to them, and it is suggested that the buildings be devoted to these purposes, and the present inmates distributed among other hospitals.

PSYCHOPATHIC WARDS.

The Act of 1911, establishing psychopathic wards in certain hospitals, in accordance with the previous recommendation of your Committee, will necessitate increased expenditure, and, as experience grows, the extent of the demands and the number of institutions to which it is to be adapted will grow also.

WAYWARD WOMEN.

There is now no institution for the care of the wayward girls and women corresponding to the Huntingdon Reformatory for Boys. Such delinquents over eighteen years of age are now sent to workhouses and jails. There they have nothing to do and no one to help them to reform, and they come in contact with the confirmed criminals of their own class. The result is that they often emerge in a worse condition than when they entered.

This matter has been agitated for several years by a committee of public-spirited women of the State, representing civic organizations of all kinds, and their programme will be again presented to the Legislature of 1913. They advocate such an institution as those maintained by New York, at Bedford and Albion, and by Massachusetts, at Sherbourne. The cost of buildings such as those at Bedford, New York, would be about \$500,000, and if constructed on the modern approved cottage system, part could be put into service as completed with a partial appropriation. Indiana, New Jersey and Ohio also have such institutions. The results in all of them have been most admirable, and the inmates form a class in the community which appeals most strongly to our sympathies and are in most urgent need of help. Such an institution would do more to solve the "vice problem," or at least to mitigate its effects, than many "vice commissions" and than thousands of "crusades." Dependent in their criminal life upon companions and leaders of stronger character of both sexes, these unfortunates need help more than punishment.

DEPENDENT CHILDREN.

Equally appealing is the need of the dependent children of the State. It is recognized that the best method of caring for dependent children is placing them in foster homes rather than institutions. In many cases, however, espec-

ially with young children, it is necessary that board be paid for them. The State aid along this line has already been begun. There exists in most of our large cities Children's Aid Societies, which look after this work in the present absence of any care of it by the Commonwealth. To a few of these appropriations are now made, to wit: The Children's Aid Societies in Westmoreland, Franklin and Crawford Counties. A lump appropriation is made to the Children's Aid Society of Western Pennsylvania, which has headquarters in Pittsburgh, and includes in its territory twenty-three counties in the western part of the Commonwealth, with certain exceptions. The remaining forty counties, comprising Eastern and Middle Pennsylvania, have to be looked after by the Children's Aid Society of Pennsylvania. The last appropriation to the western society was but \$10,000, and to the Children's Aid Society of Pennsylvania but \$30,000. The result has been that many counties are not reached at all by the Children's Aid Society of Pennsylvania. These counties are entitled to the services of the Society. It seems to your Committee vitally important that the children should not be neglected, for the "way the twig is bent the tree's inclined," and sufficient appropriations should be made to carry on the work everywhere, and to carry it on adequately. The epigram of the National Health Reform Association, that, having provided for the health of the pigs, we should now look after the babies, has reason for its indignant tone.

This should not be done, however, without fixing a standard for the conduct of the societies which shall receive such aid. The State Board of Charities may well be entrusted with this oversight.

The Commonwealth has also made a beginning in contributing to children's homes, by appropriations to institutions in Lancaster, Lackawanna, McKean, Allegheny, Luzerne, Lycoming, Dauphin, Northampton, York, Philadelphia, Mercer, Schuylkill, Erie, Berks and Mont-

gomery Counties. If this is to be done in one place, it should be done everywhere, and should have some relation to population and to the amount expended locally with the insane. Experience, however, shows that this is not the best way, and your Committee does not recommend the extension of the system. There are now well regulated organizations, (Children's Aid Societies), managed by public-spirited persons, particularly the women of the Commonwealth, to do this work if the proper financial State aid is given. When this is done it will be one of the chief glories of Pennsylvania's system of privately administered charity.

LOCAL NEEDS

All our municipalities are asking for increased revenue for their own needs to be expended in their own way. Help with the schools and the highways is only part. The farmer and real estate owner feel that they are already doing their share, and vigorously oppose an effort to increase the tax rate on land, etc. Public improvements on a large scale in the way of parks and parkways, docks, rapid transit and sewage disposal plants are contemplated by the larger cities, for whose benefit constitutional amendments are under way to increase their borrowing capacity. See the Joint Resolutions of 1911, P. L. 1160 and 1167. These, it is true, contemplate increase of debt only for self supporting public works. Yet, they indicate the tendency of the times. The same cities desire an increase in the assessed value of property, within their limits—either by legal or arbitrary methods, so the end is gained—that they may borrow more money. Interest and sinking fund charges on these are to be met. (See page 229.)

In prosecuting its work your Committee gave special heed to this demand. Cities of any considerable size all over the world were asked for information. Everywhere the tendency is to assess and collect the tax through

a central authority, and to hand back to the localities sufficient for their needs. Equality of assessment, economy of cost for the government, and economy of time and effort for the taxpayer are all promoted thereby. While we are not able to adopt the system at one stroke, as elsewhere discussed (page 199), we may easily make a beginning by adding municipal aid as a larger item of State expenditure. The ways in which this beginning should be made are discussed below, at page 224.

The Commonwealth's expenditures have nearly kept pace with her revenue, as the following table will show. The balance fluctuates, but there must be an increase in revenue to meet these needs. More taxes in general, and the change of burden in some instances were recommended to the Legislature of 1911, yet no change was made. The need is just as great to-day, and further reflection only confirms our former conclusions.

	Receipts.	Expenditures.	Surplus of receipts over expenditures.	Excess of expenditures over receipts.
1905-----	\$24,269,119 72	\$26,930,538 67	-----	\$2,661,418 95
1906-----	25,818,924 03	25,574,200 42	\$244,723 61	-----
1907-----	27,027,132 72	24,589,725 79	2,437,406 93	-----
1908-----	25,852,548 95	29,197,654 15	-----	\$3,345,105 20
1909-----	29,101,183 70	30,021,773 57	-----	920,589 87
1910-----	28,946,424 43	27,657,399 88	1,289,024 55	-----
1911-----	32,146,978 23	29,132,646 96	3,014,331 27	-----

(C) CHANGE IN SUBJECTS OF TAXATION.

First, let us consider the relief asked from present taxes. Formerly the most frequent point of attack was a tax said to be peculiar to Pennsylvania. This is the:

MERCANTILE LICENSE TAX.

Complaints to your Committee of this tax have not been so numerous in the last two years as they were previously, and it is so long settled a part of our taxing system that it seems unwise to disturb it. Public service corporations of various kinds pay a tax upon gross receipts which is closely analogous to the mercantile license tax on gross sales. It seems fair that the merchant should bear his part also. Many corporations engaged in mercantile business complain that they pay a capital stock tax and a license tax, and are subjected to double taxation. So far as this is double taxation it applies as well to the public service corporations. It is not a double tax, however, because the capital stock tax is upon the privilege of doing business in corporate form, a privilege not enjoyed by all classes of the community, whereas the mercantile license tax in some degree, like the liquor license tax, is laid upon the privilege of doing business generally.

Complaints that the cost of collecting the tax is excessive is met by the facts. The reports of the Auditor General show that in 1907 the percentage of cost was 10.6 per cent., in 1908 10.5 per cent., in 1909 11.3 per cent., and in 1910 10.9 per cent. Part of this cost is the expense of advertising the list of taxables, a system authorized by law and actually in force everywhere except Philadelphia. This system is in line with the growing demand for publicity of all tax assessments, so that the knowledge of a man's neighbors and competitors may assist the assessor in arriving at a just result and tends to impartiality. Such publicity is strongly recommended by leading authorities with reference to taxation of real estate. It is also a feature of the Federal

Corporation Tax Law. Your Committee, therefore, thinks that instead of striking down this system of publicity, it would be well to extend it, and they, therefore, recommend, that the list published should include the amount of business on which the tax is laid as well as the name of the taxable. A draft of an Act to accompany this Act is accordingly submitted. (See page 156.)

Perhaps the most serious complaint comes from those merchants, such as dealers in grain, who do business of large volume on a very small margin of profit. The tax is laid on gross sales, and is the same for a merchant who makes 50 per cent. as for one who makes one-half per cent. on each sale. In an ideal taxing system, a tax upon business operations should undoubtedly bear some relation both to the capital invested and to the profit realized, and should not follow this rule-of-thumb-method. In practice, however, it has been found more advantageous, in other lines as well, to lay the tax in the way in which the mercantile license tax is laid. Examples of this are the tax on the gross receipts of public service companies, which falls at the same rate upon those who make a large and those who make a small profit; also the tax on moneys at interest, which is at the rate of four mills, irrespective of the rate of interest. In the latter case, as elsewhere pointed out, the fixed rate of tax is an actual obstacle to the efficient taxation of bank deposits, where a low rate of interest, such as two or three per cent., is paid.

The Federal Corporation Tax is laid on net incomes without regard to capital, going part way along the lines suggested. A full realization of the ideal system is attempted in Wisconsin Income Tax law of 1911, with respect to the tax paid by corporations. The income of Wisconsin corporations is divided into classes according to the percentage which the taxable income is of the assessed valuation of the plant or property from which the income is derived; that is, if the income is one per cent. or less of the assessed value of the property, the tax rate is one-half of one per cent. of such

income, and if the taxable income equals more than one per cent., but does not exceed two per cent. of the assessed value of the property, the rate is one per cent. of the income. This progression is maintained until the rate per cent. equals 12 per cent. of the assessed value of the property, in which case the tax rate is 6 per cent., and continues at that rate for all income beyond. These provisions have precedents in a Georgia law of 1863, and a Swedish law of 1910. Until we have constitutional authority to levy graded or progressive taxes, such a system could not be adopted here. The prospect of obtaining authority for this in the near future, as elsewhere pointed out, is a reason for not disturbing the system at this time.

And while this method may not be burdensome to corporations, its application to an individual would have practical difficulties and dangers. To ascertain the amount of capital invested in the case of many individuals who do business without an up-to-date system of bookkeeping, and perhaps without much idea of the capital invested, is almost impossible. Even if possible, it would extend the inquisitorial methods which are everywhere unpopular to attempt to ascertain the amount of capital invested. To endeavor to ascertain the actual profit realized would be even more obnoxious, and for the same reasons more difficult. The ascertainment of these facts would put a vastly greatly burden upon the mercantile license tax appraisers, and greatly increase the expense of assessing the tax.

The present method of measuring the tax by gross sales bears some relation to profit, as much so as that of measuring it by the rental value of the premises occupied, which is current in the progressive Canadian provinces, and far more so than the tax of a lump sum on each merchant so common in other States, and used by us in taxing the liquor business.

RETURN OF MERCANTILE LICENSE TAX TO
COUNTIES.

Claim was made by county officials that the proceeds of the mercantile license tax were a fit sum to be turned back to the counties in which they were collected, as is done with three-fourths of the personal property tax and with one-half of the tax on the premiums of foreign insurance companies. It may be said in general, of the revenue of the Commonwealth and its subdivisions, that the State revenue is more nearly adequate to State needs than is the local revenue to local needs. If the new taxes suggested are laid in sufficient amount to take the place of the mercantile license tax, your Committee thinks that it would be proper to turn back to the counties some part or all of this tax, and an Act accomplishing that is submitted herewith. (See page 155.)

AN ACT TO PROVIDE FOR THE RETURN BY THE STATE TREASURER TO THE SEVERAL COUNTIES FROM WHICH THE SAME ARE RECEIVED, FOR THEIR OWN USE, OF ONE-HALF OF CERTAIN TAXES RECEIVED OR COLLECTED BY COUNTY TREASURERS OR OTHER OFFICERS AND PAID INTO THE STATE TREASURY.

SECT. 1. Be it enacted, etc., That on and after the first day of January, one thousand nine hundred and fourteen, and annually thereafter, one-half of the net amount of the mercantile license tax upon vendors or of dealers in goods, wares or merchandise, at retail, at wholesale and at any exchange or board of trade; one-half of the net amount of the mercantile license tax upon restaurants, eating houses, cafés and quick-lunch businesses; one-half of the net amount of the license tax upon auctioneers, and one-half the net amount of the license tax upon brokers, factors, commission merchants, agents and pawnbrokers, paid by the persons, firms, limited partnerships or corporations engaged in any of the aforesaid occupations or businesses and received or collected by County Treasurers or other officers and transmitted to the State Treasurer and paid into the State Treasury, shall be returned by the State Treasurer to the counties from which the same are

received for their own use. Warrants for this purpose shall be drawn by the Auditor General, payable to the treasurer of the several counties in accordance with this Act; *Provided*, That in consideration of the return to the counties as aforesaid of one-half of the taxes so collected and paid into the State Treasury no claim shall be made upon or allowed by the Commonwealth for County Treasurers, or mercantile appraisers, commissions or fees or mileage.

SECT. 2. All Acts or parts of Acts, general, special or local inconsistent herewith be and the same are hereby repealed.

AN ACT RELATIVE TO MERCANTILE APPRAISERS' LISTS.

SECT. 1. Be it enacted, etc., That hereafter the Mercantile Appraisers' Lists published in each county of the Commonwealth, in addition to the names and classification of each person subject to license, shall also give the amount of the gross volume of business transacted annually upon which the tax is assessed.

INSURANCE COMPANIES.

Insurance companies have long been considered the legitimate object of heavy taxation. They represent large accumulations of money in a shape where they are already thoroughly supervised and where an accurate record must be kept, so that the sufficiency of the returns for taxation can be easily verified. As these companies do business with all classes of the community, and as their taxes form a part of their running expenses which must affect the rate of premium charged, the tax is soon distributed through the community. For this very reason, however, the companies have time and again sought to avoid the taxation, claiming, with truth, that the tax falls not upon them, but upon the citizens at large.

Mutual life insurance companies, particularly, have, during the last four years, been very earnest in their representations upon this subject. They call attention to the fact that they have no capital stock and do not work for the profit of stockholders, but for the benefit solely of their members, who constitute a very large portion of the Commonwealth's citizens, and that the tax is a discouragement to the very useful practice of insurance and especially to the insurance on lives. They are, in fact, taxed to the same extent, practically as companies having capital stock. The latter pay the five mills capital stock tax, but, in lieu thereof, the mutual companies pay the four mills personal property tax, which amounts to more in the end. In addition, both kinds of companies, pay the eight mills tax on gross premiums received.

Another burden of which these companies complain, strange to say, is the excessive tax laid upon their rivals, the foreign insurance companies. This is two per cent. on gross premiums. While the effect, of course, is to discourage such companies from doing business in this Commonwealth in competition with our own companies, yet our own com-

panies desire to do business outside of the Commonwealth, and when they do so they are met almost everywhere by a retaliatory tax which is laid upon them in other States to the same extent that we tax the companies of that State in our own home. For this reason our companies would prefer to meet foreign companies upon an equality, both at home and abroad. In these days, when insurance companies are so thoroughly supervised, and all practically are solvent, there is no reason for discouraging the doing of business by foreign insurance companies, and our citizens should have the benefit of competition from them.

The mutual life insurance companies, therefore, propose that all companies, domestic and foreign, doing a life insurance business, both capital stock and mutual companies, should be taxed alike. The rate suggested is one per cent. on the gross premiums. This is two mills in advance of the present rate, as to the domestic companies, but as it is in lieu of both the capital stock tax of five mills on the capital stock companies and the personal property tax of four mills on the mutual companies, the net result will unquestionably be a decrease in the amount of tax paid by these companies. It is represented by the companies that the increase of business will soon compensate for the decrease in the tax rate, but the result in the decreased rate of premium would be so small that it seems very doubtful if it will be adequate to fulfill this prediction.

It is argued in favor of the proposed tax that mutual insurance companies are really benevolent institutions, like fraternal orders and savings institutions, which are exempted from the four mills personal property tax, as elsewhere discussed. An instance is cited of the weight of the present burden of taxation where the taxes paid by a company last year amounted to \$154,000 more than it paid in administration expenses.

An act has been drafted by these companies to carry into effect the proposed change, which is appended hereto at page 160 for the information of the Legislature. By its terms as drawn, the present eight mills tax on gross premiums and

capital stock tax or personal property tax, according as the company is a capital stock or a mutual company, is retained as to all other companies and the premium tax on foreign companies other than life is reduced to 8 mills.

Upon the basis of the year 1911 the estimated revenue from these companies would be one per cent. upon the premiums paid to domestic life insurance companies, to wit, \$10,012,764.85, and to foreign life insurance companies \$52,236,680.75, making the tax \$622,494.46. This tax would displace the four mills personal property tax now paid by domestic mutual life companies, as to which there are no means of submitting figures, as their returns are mingled with the assessments of individuals in the cities where their offices are located, and the tax on the same premiums at the present rates, which would amount to \$1,112,234.55; Also, the revenue from tax on premiums of foreign insurance companies other than life at the rate of 12 mills, or \$76,533.07. The loss to the counties on personal property tax and foreign fire insurance premium tax would be in part compensated for by the proposed return of one-half of the mercantile license tax, which in 1911 amounted to \$1,387,620.80. The proposed tax would also take the place of the present revenue to the Commonwealth from capital stock tax on domestic life insurance companies amounting to about \$20,000.

Your Committee last year recommended an increase in the tax on premiums of all insurance companies to three per cent., in view of the already existing policy of taxing insurance companies heavily. This proposal was not acceptable to the Legislature, and, therefore, your Committee makes no recommendation of a change at this time as respects the domestic companies, submitting the information thus gathered for the consideration of the Legislature.

It would be desirable, however, as we think, that foreign and domestic companies should be put on the same basis, so far as the rate of tax is concerned, for the considerations above set forth.

AN ACT AMENDING AN ACT ENTITLED "A SUPPLEMENT TO THE TWENTY-FOURTH SECTION OF AN ACT ENTITLED 'AN ACT TO PROVIDE REVENUE BY TAXATION, APPROVED THE SEVENTH DAY OF JUNE, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-NINE,' APPROVED THE FIRST DAY OF JUNE, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-NINE, AMENDING THE TWENTY-FOURTH SECTION, BY PROVIDING FOR THE PAYMENT BY THE STATE TREASURER OF ONE-HALF OF THE TWO PER CENTUM TAX ON PREMIUMS PAID BY FOREIGN FIRE INSURANCE COMPANIES TO THE TREASURERS OF THE SEVERAL CITIES AND BOROUGHES WITHIN THIS COMMONWEALTH," APPROVED THE TWENTY-EIGHTH DAY OF JUNE, ONE THOUSAND EIGHT HUNDRED AND NINETY-FIVE, AMENDING THE FIRST SECTION BY PROVIDING FOR THE PAYMENT BY ALL LIFE INSURANCE COMPANIES OR ASSOCIATIONS DOING BUSINESS IN THIS COMMONWEALTH OF AN ANNUAL TAX AT THE RATE OF ONE PER CENTUM UPON THE GROSS PREMIUMS OF EVERY CHARACTER RECEIVED FROM RESIDENTS OF THIS COMMONWEALTH, IN LIEU OF ALL TAXES TO WHICH SAID COMPANIES OR ASSOCIATIONS MIGHT OTHERWISE HAVE BEEN SUBJECT UNDER THE FIRST SECTION OF THE ACT APPROVED THE FIRST DAY OF JUNE, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-NINE, AND IN LIEU OF ALL TAXES TO WHICH SAID COMPANIES OR ASSOCIATIONS MIGHT OTHERWISE HAVE BEEN SUBJECT UNDER THE TWENTY-FIRST SECTION OF SAID ACT, AS RESPECTS SO MUCH OF THEIR CAPITAL AS IS INVESTED IN THE BUSINESS OF LIFE INSURANCE; AND PROVIDING THAT ALL SUMS PAID OUT FOR REINSURANCE BY ANY INSURANCE COMPANY SHALL BE DEDUCTED FROM TAXABLE PREMIUMS, AND THAT PREMIUM ABATEMENTS TO HOLDERS OF POLICIES OF LIFE INSURANCE SHALL NOT BE INCLUDED IN GROSS PREMIUMS.

SECT. 1. Be it enacted, etc., That Section 1, of the Act of June twenty-eighth, one thousand eight hundred and ninety-five, entitled "A supplement to the twenty-fourth section of an Act, entitled 'An Act to provide revenue by taxation, approved the seventh day of June, one thousand eight hundred and seventy-nine,' approved the first day of June, one thousand eight hundred and eighty-nine, amending the twenty-fourth section by providing for the payment by the State Treasurer of one-half of the two per centum tax on premiums paid by foreign fire insurance companies to the treasurers of the several cities and boroughs within the Commonwealth," which reads as follows:

"That hereafter it shall be the duty of the president, secretary or other proper officer of each and every insurance company or association, incorporated by or under any law of this Commonwealth, except companies doing business upon the purely mutual plan with-

out any capital stock or accumulated reserve, and purely mutual beneficial associations whose benefits of members, their families or heirs are made up entirely of the weekly or monthly contributions of their members and the accumulated interest thereon; to make report in writing to the Auditor General, semi-annually, upon the first days of July and January in each year, setting forth the entire amount of premiums and assessments received by such company or association during the preceding six months, whether said premiums and assessments were received in money or in the form of notes, credits or other substitutes for money, and every such company or association shall pay in to the State Treasury, semi-annually, on the last days of January and July, in addition to any other taxes to which it may be liable under the first and twenty-first sections of this Act, a tax of eight mills on the dollar upon the gross amount of said premiums and assessments received from business transacted within this Commonwealth; *Provided*, That said reports shall be made under oath or affirmation, and it shall be the duty of the accounting officers of the Commonwealth to add ten per centum to the account of any company or association whose officers shall neglect or refuse, for a period of thirty days, to make said report or to pay in to the State Treasury the tax imposed by this section; *And Provided further*, That hereafter the annual tax upon premiums of insurance companies of other States or foreign governments shall be at the rate of two per centum upon the gross premiums of every character and description received from business done within this Commonwealth within the entire calendar year preceding," be amended to read as follows:

That hereafter it shall be the duty of the president, secretary or other proper officer of each and every insurance company or association doing business in this Commonwealth, except companies doing business upon the purely mutual plan without any capital stock or accumulated reserve, and purely mutual beneficial associations whose funds for the benefit of members, their families or heirs are made up entirely of the weekly or monthly contributions of their members and the accumulated interest thereon; to make report in writing to the Auditor General, semi-annually, upon the first days of July and January in each year, setting forth the entire amount of premiums and assessments received by such company or association during the preceding six months from residents of this Commonwealth, whether said premiums or assessments were received in money or in the form of notes, credits or other substitutes for money, and every such company or association, except companies or associations engaged in the business of life insurance, shall pay into the State Treasury, semi-annually, on the last days of July and

January, in addition to any other taxes to which it may be liable under the first and twenty-first sections of this Act, a tax of eight mills on the dollar upon the gross amount of said premiums and assessments received from the business transacted within this Commonwealth, and every life insurance company or association organized under the laws of other States or foreign governments, and every life insurance company or association organized under any law of this Commonwealth shall pay in to the State Treasury, semi-annually, on the last days of July and January, in lieu of any other taxes to which it might otherwise be liable under the first section of this Act, and in lieu of any tax to which it might otherwise have been liable under the twenty-first section hereof, as respects so much of its capital as is invested in the business of life insurance, a tax at the rate of one per centum upon the gross premiums of every character and description actually received from residents of this Commonwealth during the preceding six months; *Provided*, That all sums paid out as premiums for reinsurance and all sums credited to residents of this Commonwealth who are policyholders in life insurance companies in reduction or abatement of premiums shall be deducted from the gross premiums received before the amount of the tax is determined; *And Provided*, That said reports shall be made under oath or affirmation, and it shall be the duty of the accounting officers of the Commonwealth to add ten per centum to the account of any company or association whose officers shall neglect or refuse, for a period of thirty days, to make said reports, or to pay in to the State Treasury the tax imposed by this section.

SECT. 2. All Acts or parts of Acts inconsistent herewith be and the same are hereby repealed.

EXEMPTIONS.

On the other hand, exemptions exist which are not sound in policy, and which should be done away with to the benefit of both the revenue and fair dealing.

EXEMPTION OF SAVINGS INSTITUTIONS FROM FOUR MILLS TAX.

In the previous report of your Committee, attention was called to the Act of 1909, P. L. 298, which exempted savings institutions not having a capital stock from the four mills tax on money at interest. In principle, the four mills personal property tax is laid upon the creditor. In practice, it falls upon the debtor, as is indicated by the current rate of interest in the large communities of five and four-tenths per cent. per annum for money loaned on mortgage. As long as the great bulk of the money loaned in any community comes from investors which are not exempt from the payment of the tax, the rate will remain at five and four-tenths per cent., or some other rate adapted to suit their necessities, and the borrower will have to pay the same rate to institutions exempt from the tax as to private individuals. The benefit of the four mills will thus go to the institution, and if the money thus saved actually went to the depositors of small means, who by thrift are accumulating small savings accounts, it might be well to continue the relief from the tax. But in Philadelphia, where most of these institutions are located, the interest paid to depositors, to wit, 3.65 per cent., has remained the same since the passage of the Act of 1909, and the saving effected to the institution has gone to swell the *surplus undistributed*, which already amounts for the Philadelphia Savings Fund Society alone, in 1911, to \$13,990,514.00.

Another objection to this exemption in favor of saving institutions is the discrimination in favor of those corpo-

rations which can sell their securities to such institutions tax free as against corporations engaged in similar or competitive business, which have not the opportunity to dispose of theirs to such favored customers. Your Committee is informed that the Act of 1909 creating the exemption, was inspired not by a desire to help these institutions in which are deposited small savings, to the encouragement of thrift of that class of depositors, but to enable a corporation to sell to a prominent savings institution bonds thus made tax free, which theretofore had been unsaleable. Such an exemption favors not the man or woman of small means, consideration for whom could have been to legislators the only impelling motive to the passage of such a law, whereas, in fact, it was promoted for the accomplishment of selfish ends.

The Legislature of 1911 did not enact the proposed repeal of the Act of 1909. But in another connection, to wit, the Act of May 11, 1911, P. L. 265, in exempting from the four mills tax beneficial organizations paying sick and death benefits, the Legislature may unwittingly have done so. The Act of 1909 cites for amendment Section 1 of the Act of June 1, 1889, as amended by the Act of June 8, 1891. The Act of 1911 just mentioned cites for amendment the same section of the Act of 1889 as amended by the Act of 1891, but cites it as it originally stood and not as amended by the Act of 1909, so that when it is re-enacted by the Act of 1911 the provision exempting savings institutions is omitted. There is no authoritative decision as to the effect of this, although numerous instances of it may be found in the Statute Books in other connections. It would seem, that to say that a certain statute shall hereafter read thus and so, excludes all other readings which may have been theretofore prescribed by statute. In view of the uncertainty, however, your Committee recommends a repeal of the Act of 1909 and submits on page 165 the draft of a statute to accomplish that end.

AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO AMEND THE FIRST SECTION OF AN ACT, ENTITLED 'A FURTHER SUPPLEMENT TO AN ACT, ENTITLED "AN ACT TO PROVIDE REVENUE BY TAXATION," APPROVED THE SEVENTH DAY OF JUNE, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY-NINE,' APPROVED THE FIRST DAY OF JUNE, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-NINE, AS AMENDED BY AN ACT APPROVED THE EIGHTH DAY OF JUNE, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND NINETY-ONE, ENTITLED 'AN ACT TO PROVIDE INCREASED REVENUES FOR THE PURPOSE OF RELIEVING THE BURDENS OF LOCAL TAXATION, BEING SUPPLEMENTARY TO AN ACT, ENTITLED "AN ACT TO PROVIDE REVENUE BY TAXATION," APPROVED THE SEVENTH DAY OF JUNE, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY-NINE, AMENDING THE FIRST, FOURTEENTH, SIXTEENTH, TWENTIETH, TWENTY-FIRST, TWENTY-FIFTH AND TWENTY-SIXTH SECTIONS OF AN ACT SUPPLEMENTARY THERETO, WHICH BECAME A LAW ON THE FIRST DAY OF JUNE, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND EIGHTY-NINE, ENTITLED 'A FURTHER SUPPLEMENT TO AN ACT, ENTITLED "AN ACT TO PROVIDE REVENUE BY TAXATION," APPROVED THE SEVENTH DAY OF JUNE, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY-NINE,' AND PROVIDING FOR GREATER UNIFORMITY OF TAXATION BY TAXING ALL OF THE PROPERTY OF CORPORATIONS, LIMITED PARTNERSHIPS, AND JOINT STOCK ASSOCIATIONS HAVING CAPITAL STOCK, AT THE RATE OF FIVE MILLS ON EACH DOLLAR OF ITS ACTUAL VALUE, BY RELIEVING AND EXEMPTING FROM THE PROVISIONS THEREOF SAVINGS INSTITUTIONS HAVING NO CAPITAL STOCK," APPROVED MAY FIRST, ONE THOUSAND NINE HUNDRED AND NINE.

SECT. 1. Be it enacted, etc., That an Act, entitled "An Act to amend the first section of an Act, entitled 'A further supplement to an Act, entitled "An Act to provide revenue by taxation," approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine,' approved the first day of June, one thousand eight hundred and eighty-nine, as amended by an Act approved the eighth day of June, Anno Domini one thousand eight hundred and ninety-one, entitled "An Act to provide increased revenues for the purpose of relieving the burdens of local taxation, being supplementary to an Act, entitled 'An Act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine, amending the first, fourteenth, sixteenth, twentieth, twenty-first, twenty-fifth and twenty-sixth sections of an Act supplementary thereto, which became a law on the first day of June, Anno Domini one thousand eight hundred and eighty-

nine. entitled 'A further supplement to an Act, entitled "An Act to provide revenue by taxation," approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine.' and providing for greater uniformity of taxation by taxing all of the property of corporations, limited partnerships and joint stock associations, having capital stock, at the rate of five mills on each dollar of its actual value, by relieving and exempting from the provisions thereof savings institutions having no capital stock." approved May first, one thousand nine hundred and nine, be and the same is hereby repealed.

PROVIDENT LIFE AND TRUST COMPANY, AND THE PAYMENT OF PERSONAL PROPERTY TAX.

A remarkable instance of tax evasion is that of the Provident Life and Trust Company of Philadelphia. This company has capital stock, and it does a general trust company business, and also an insurance company business. On its books the assets of the two departments are kept separate. It is not a mutual company, however, and it first seemed to the taxing authorities that the investments of the reserves of the insurance department, amounting then to about thirty million dollars, entered into the value of the capital stock and should be considered in assessing capital stock taxes. Upon the sworn statement of the officers of the company, filed of record, however, that these assets belonged to the policyholders only, and in no manner affected the value of the capital stock, the Court of Common Pleas of Dauphin County held (*Commonwealth vs. Provident Life and Trust Company*, 9 Dist. Rep., 479), that these investments could not be considered in assessing capital stock tax. This case was not taken to the Supreme Court. Accordingly, the local assessors of Philadelphia County, where the company is located, attempted to include these assets in assessing the four mills personal property tax, against the company, just as all other similar assets are taxed

which do not form part of the capital, and hence are not considered in assessing the capital stock tax. The law provides, (Act of June 8, 1891, P. L. 229), that corporations paying a capital stock tax should not be required to pay any further tax on the mortgages, etc., "owned by them in their own right." The company thereupon claimed that they did own these assets in their own right, and not in trust for their policyholders, and that they did affect the value of the capital stock, and could only be assessed in the capital stock tax, and this although they had induced the Dauphin County Court to decide otherwise, and although those assets were on the books of the company specially set apart in the insurance department as part of the reserves. This contention was sustained by the Supreme Court in the case of *Provident Life and Trust Company vs. Durham*, 212 Pa. 68.

The Legislature then attempted, by the Act of June 7, 1907, P. L. 430, to take these securities out of the "no man's land," into which they had fallen, and, recognizing that in justice they did belong to the policyholders and not to the company, to subject them to the four mills personal property tax. In passing this Act through the Legislature the title was muddled in some way—the responsibility for which cannot now be fixed—and came out in an unintelligible form, the date of the Act to which reference was made for the purpose of amendment being so changed that it referred to an Act not in existence. In a litigation pending at the time of our previous report it had been held by the Court of Common Pleas No. 2, Philadelphia County, that the title of the Act was valid, but that the language of the Act was still ineffective to subject these assets to tax as desired. On appeal, the Supreme Court held, (*Provident Life and Trust Company vs. Hammond*, 230 Pa. 407), that the title of the Act was defective, and no construction was made of the wording of the statute.

In spite of the decision of the lower court, however, criticising the language of the statute, the Legislature of 1911,

by the Act of June 7, 1911, P. L., 673, re-enacted the Act of 1907, with an adequate and a properly worded title, but repeated the language in the body of the statute which had been declared ineffectual by the lower court. Two suits have been brought in the same court to test the effect of this Act, a preliminary injunction has been granted and trial had of one suit, resulting in the awarding of a permanent injunction by the trial Judge, which is still the subject of exception and appeal.

Your Committee, in its previous report, recommended an Act (which is repeated in this report at page 168), which was carefully worded to meet the two previous decisions.

In anticipation of an unfavorable final decision of the Supreme Court upon the effect of the Act of 1911, your Committee again most strongly urge the passage of this Act. Whether it is necessary or not, in view of the action of this company, as above set forth, and the result which has exempted from taxation for so many years this enormous amount of securities, on Nov. 12, 1912, \$61,052,773.56, your Committee think that no step should be left untaken by the Commonwealth which will tend to put this company upon the same basis with respect to taxation as its competitors and other members of the community. Other insurance companies having capital stock pay capital stock tax; and mutual insurance companies which do not have capital stock, pay the personal property tax. This company pays nothing on those assets.

AN ACT TO FURTHER AMEND SECTION 21 OF AN ACT, ENTITLED "A FURTHER SUPPLEMENT TO AN ACT ENTITLED 'AN ACT TO PROVIDE REVENUE BY TAXATION,' APPROVED THE SEVENTH DAY OF JUNE, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY-NINE," APPROVED JUNE FIRST, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-NINE.

SECT. 1. Be it enacted, etc., That Section 21 of an Act entitled "A further supplement to an Act entitled 'An Act to provide revenue by taxation,' approved the seventh day of June, Anno Domini

one thousand eight hundred and seventy-nine," approved June first, one thousand eight hundred and eighty-nine, which, as heretofore amended, reads as follows:

"SECT. 21. That every corporation, joint stock association, limited partnership and company whatsoever, from which a report is required under the twentieth section hereof, shall be subject to and pay into the Treasury of the Commonwealth, annually, a tax at the rate of five mills upon each dollar of the actual value of its whole capital stock of all kinds, including common, special and preferred, as ascertained in the manner prescribed in said twentieth section, and it shall be the duty of the treasurer or other officers having charge of any such corporation, joint stock association or limited partnership, upon which a tax is imposed by this section, to transmit the amount of said tax to the Treasury of the Commonwealth within thirty days from the date of settlement of the account by the Auditor General and State Treasurer; *Provided*, That for the purposes of this Act, interests in limited partnerships or joint stock associations shall be deemed to be capital stock and taxable accordingly; *Provided also*, That corporations, limited partnerships and joint stock associations, liable to tax on capital stock under this section, shall not be required to make any report or pay any further tax on mortgages, bonds and other securities owned by them in their own right; but corporations, limited partnerships and joint stock associations holding such securities as trustees, executors, administrators, guardians, or in any other manner, shall return and pay the tax imposed by this Act upon all securities so held by them as in the case of individuals; *And Provided further*, That the provisions of this section shall not apply to the taxation of so much of the capital stock of corporations, limited partnerships or joint stock associations, organized for manufacturing purposes, which is invested in and actually and exclusively employed in carrying on manufacturing within the State, except companies engaged in the brewing or distilling of spirits or malt liquors, and such as enjoy and exercise the right of eminent domain; but every manufacturing corporation, limited partnership or joint stock association shall pay the State tax of five mills herein provided, upon such proportion of its capital stock, if any, as may be invested in any property or business not strictly incident or appurtenant to its manufacturing business, in addition to the local taxes assessed upon its property in the districts where located, it being the object of this proviso to relieve from State taxation only so much of the capital stock as is invested purely in the manufacturing plant and business; *Provided further*, In case of fire or marine insurance companies the tax imposed by this section shall be at the rate of

three mills on each dollar of the actual value of the whole capital stock," be and the same is hereby amended so as to read as follows:

SECT. 21. That every corporation, joint stock association, limited partnership and company whatsoever, from which a report is required under the twentieth section hereof, shall be subject to and pay into the Treasury of the Commonwealth, annually, a tax at the rate of five mills upon each dollar of the actual value of its whole capital stock of all kinds, including common, special and preferred, as ascertained in the manner prescribed in said twentieth section; and it shall be the duty of the treasurer or other officers having charge of any such corporation, joint stock association or limited partnership, upon which a tax is imposed by this section, to transmit the amount of said tax to the Treasury of the Commonwealth within thirty days from the date of the settlement of the account by the Auditor General and the State Treasurer; *Provided*, That for the purpose of this Act, interests in limited partnerships or joint stock associations shall be deemed to be capital stock, and taxable accordingly; *Provided also*, That corporations, limited partnerships and joint stock associations, liable to tax on capital stock under this section, shall not be required to pay any further tax on the mortgages, bonds and other securities owned by them, *which form part of its capital stock surplus and undivided profits belonging to the whole body of stockholders or members as such*; but corporations, limited partnerships and joint stock associations, *owning* or holding such securities as trustees, executors, administrators, guardians, or in any other manner *than as aforesaid*, shall return and pay the tax imposed by this Act upon all securities *so owned* or held by them, as in the case of individuals; *And Provided further*, That the provisions of this section shall not apply to the taxation of so much of the capital stock of corporations, limited partnerships or joint stock associations, organized for manufacturing purposes, which is invested in and actually and exclusively employed in carrying on manufacturing within the State, except companies engaged in the brewing or distilling of spirits or malt liquors, and such as enjoy and exercise the right of eminent domain; but every manufacturing corporation, limited partnership or joint stock association shall pay the State tax of five mills herein provided, upon such proportion of its capital stock, if any, as may be invested in any property or business not strictly incident or appurtenant to its manufacturing business, in addition to the local taxes assessed upon its property in the districts where located, it being the object of this proviso to relieve from State taxation only so much of the capital stock as is invested purely in the manufacturing plant and business; *Provided further*, In case of fire or marine insurance companies the tax imposed by this section shall be at the rate of three mills on each dollar of the actual value of the whole capital stock.

PUBLIC SERVICE CORPORATIONS AND THE TAX ON GROSS RECEIPTS, ETC.

The tax on the gross receipts of various public service corporations has existed in Pennsylvania since 1866. It has been gradually extended until it includes all kinds of transportation companies, including pipe line railway, telephone, telegraph, express and electric light companies. The only difficulty in practice is in separating the receipts from inter-state business from the receipts from business within the Commonwealth, the former of which cannot be taxed.

Rules of apportionment have been devised, however, which work satisfactorily and are easy of application. It is a tax easily collected, and capable of accurate ascertainment, for the same reasons as in the case of the mercantile license tax. For the year ending November 30, 1911, it yielded to the State \$1,646,666.65. In the march of progress, however, certain corporations which ought to pay the tax, as well as others of like kind which actually do pay it, have been left behind. Among these are baggage transfer companies, which should be taxed in the same way as express companies are, under the Act of 1889. For the purpose of doing so, a draft act amending the Act of 1899 is submitted herewith, and will be found at page 172.

Another class is artificial gas companies. Their competitors, the electric light companies, by the Act of 1889, were subjected to a tax of eight mills on the gross receipts. These companies, (artificial gas), are also exempt from capital stock tax on the ground that they are manufacturing companies. The same considerations apply to water companies, which are often conducted under the same corporate title as artificial gas companies, and water power companies, which should be on an equality with the electric light companies, which are their rivals in the furnishing of power. The general Act levying this

tax which is applicable to all these corporations, except express companies, is the Act of 1889, and accordingly it has been redrafted for the purpose of levying these taxes, and will be found in this report at page 174.

AN ACT TO AMEND SECTION 2 OF AN ACT ENTITLED "A SUPPLEMENT TO AN ACT ENTITLED 'AN ACT TO PROVIDE REVENUE BY TAXATION,' APPROVED THE SEVENTH DAY OF JUNE, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY-NINE, AMENDING AND EXTENDING THE PROVISIONS THEREOF," APPROVED THE TWENTY-EIGHTH DAY OF APRIL, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND NINETY-NINE.

SECT. 1. Be it enacted, etc., That Section 2 of an Act entitled "A supplement to an Act entitled 'An Act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine, amending and extending the provisions thereof," which reads as follows:

"SECT. 2. Every corporation, limited partnership, joint stock association, partnership, firm or association of individuals, incorporated or unincorporated, engaged in the business commonly known as express business, shall pay to the State Treasurer, for the use of the Commonwealth, a tax of eight mills upon the amount of their gross receipts from express business done wholly within this State, the said tax shall be paid semi-annually upon the last days of January and July in each year; and for the purpose of ascertaining the amount of the same, it shall be the duty of the treasurer, or other proper officer of the said corporation, limited partnership, joint stock association, partnership, firm or association of individuals, to transmit to the Auditor General a statement, under oath or affirmation, of the amount of gross receipts of the said corporation, limited partnership, joint stock association, partnership, firm or association of individuals, incorporated or unincorporated, derived from all sources, and of the gross receipts from business done wholly within the State during the preceding six months ending upon the first days of January and July in each year; and if any such corporation, limited partnership, joint stock association, partnership, firm or association of individuals, incorporated or unincorporated, shall neglect or refuse for a period of thirty days after such tax becomes due to make said returns, or to pay the said tax, the amount thereof, with an addition of ten per centum thereto, shall be collected for the use of the Commonwealth as other taxes are

recoverable by law. No other tax upon express receipts, or upon the privilege of transacting express business, shall be collected without further authority of law to be hereafter enacted; *Providing*, That this Act shall not be construed to repeal or take the place of the tax upon capital stock now imposed by law, but the tax on gross receipts hereby imposed shall be in addition to the tax on capital stock imposed by existing law upon any of the corporations, companies or associations hereby taxed," be and the same is hereby amended so as to read as follows:

SECT. 2. Every corporation, limited partnership, joint stock association, partnership, firm or association of individuals, incorporated or unincorporated, engaged in *the business of carrying baggage or persons*, or in the business commonly known as express business, or in any other business of a like character and commonly known as *transfer companies, express companies and companies doing similar business*, shall pay to the State Treasurer, for the use of the Commonwealth, a tax of eight mills upon the amount of their gross receipts from *transfer, express and similar business* done wholly within this State, the said tax shall be paid semi-annually upon the last days of January and July in each year; and for the purpose of ascertaining the amount of the same, it shall be the duty of the treasurer, or other proper officer of the said corporation, limited partnership, joint stock association, partnership, firm or association of individuals, to transmit to the Auditor General a statement, under oath or affirmation of the amount of gross receipts of the said corporation, limited partnership, joint stock association, partnership, firm or association of individuals, incorporated or unincorporated, derived from all sources, and of the gross receipts from business done wholly within the State, during the preceding six months ending upon the first days of January and July in each year; and if any such corporation, limited partnership, joint stock association, partnership, firm or association of individuals, incorporated or unincorporated, shall neglect or refuse, for a period of thirty days after such tax becomes due to make said returns, or to pay the said tax, the amount thereof, with an addition of ten per centum thereto, shall be collected for the use of the Commonwealth as other taxes are recoverable by law. No other tax upon *transfer, express and similar* receipts, or upon the privilege of transacting *transfer, express and similar* business, shall be collected without further authority of law to be hereafter enacted; *Provided*, That this Act shall not be construed to repeal or take the place of the tax upon capital stock now imposed by law, but the tax on gross receipts hereby imposed shall be in addition to the tax on capital stock imposed by existing law upon any of the corporations, companies or associations hereby taxed.

AN ACT TO AMEND SECTION 23 OF AN ACT ENTITLED "A FURTHER SUPPLEMENT TO AN ACT ENTITLED 'AN ACT TO PROVIDE REVENUE BY TAXATION,' APPROVED THE SEVENTH DAY OF JUNE, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY-NINE," APPROVED JUNE FIRST, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-NINE.

SECT. 1. Be it enacted, etc., That Section 23 of an Act entitled "A further supplement to an Act entitled 'An Act to provide revenue by taxation, approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine,'" approved June first, one thousand eight hundred and eighty-nine, which reads as follows :

SECT. 23. That every railroad company, pipe line company, conduit company, steamboat company, canal company, slack water navigation company, transportation company, street passenger railway company and every other company, joint stock association or limited partnership, now or hereafter incorporated or organized by or under any law of this Commonwealth, or now or hereafter organized or incorporated by any other State or by the United States or any foreign government, and doing business in this Commonwealth, and owning, operating or leasing to or from another corporation, company, association, joint stock association or limited partnership, any railroad, pipe line, slack water navigation, street passenger railway, canal or other device for the transportation of freight or passengers or oil, and every telephone or telegraph company incorporated under the laws of this or any other State of the United States and doing business in this Commonwealth, and every express company, incorporated or incorporated, doing business in this Commonwealth, and every firm, copartnership or joint stock company or association doing express business in this Commonwealth, and every electric light company, and every palace car and sleeping car company, incorporated or unincorporated, doing business in this Commonwealth, shall pay to the State Treasurer a tax of eight mills upon the dollar upon the gross receipts of said corporation, company or association, limited partnership, firm or copartnership, received from passengers and freight traffic transported wholly within this State, and from telegraph, telephone or express business done wholly within this State, or from business of electric light companies and from the transportation of oil done wholly within the State; the said tax shall be paid semi-annually upon the last days of January and July in each year; and for the purpose of ascertaining the amount of the same it shall be the duty of the treasurer or other proper officers of the said company, firm, copartnership, limited partnership, joint

stock association or corporation to transmit to the Auditor-General a statement, under oath or affirmation, of the amount of gross receipts of the said companies, copartnerships, corporations, joint stock associations, or limited partnerships derived from all sources and of gross receipts from business done wholly within the State, during the preceding six months ending on the first days of January and July in each year; and if any such company, firm, copartnership, joint stock association, association or limited partnership or corporation, shall neglect or refuse for a period of thirty days after such tax becomes due to make said returns or to pay the same, the amount thereof, with an addition of ten per centum thereto, shall be collected for the use of the Commonwealth as other taxes are recoverable by law; *Provided*, That in any case where the works of one corporation, company, joint stock association or limited partnership are leased to and operated by another corporation, company, association or limited partnership, the taxes imposed by this section shall be apportioned between the said corporations, companies, associations or limited partnerships in accordance with the terms of their respective leases or agreements, but for the payment of the said taxes the Commonwealth shall first look to the corporation, company, association or limited partnership operating the works, and upon payment by the said company, corporation, association or limited partnership of a tax upon the receipts as herein provided derived from the operation thereof, the corporation, company, joint stock association or limited partnership from which the said works are leased, shall not be held liable under this section for any tax upon the proportion of said receipts received by it as rental for the use of said works," be and the same is hereby amended to read as follows:

SECT. 23. That every railroad company, pipe line company, conduit company, steamboat company, canal company, slack water navigation company, transportation company, street passenger railway company, and every other company, joint stock association or limited partnership, now or hereafter incorporated or organized by or under any law of this Commonwealth, or now or hereafter organized or incorporated by any other State or by the United States or any foreign government, and doing business in this Commonwealth. and owning, operating, or leasing to or from another corporation, company, association, joint stock association or limited partnership, any railroad, pipe line, slack water navigation, street passenger railway, canal or other device for the transportation of freight or passengers or oil, and every telephone or telegraph company incorporated under the laws of this or any other State or of the United States and doing business in this Commonwealth, and every express company, incor-

porated or unincorporated, doing business in this Commonwealth, and every firm, co-partnership, or joint stock company or association doing express business in this Commonwealth, and every electric light company, *and every artificial gas company, water company and water power company*, and every palace car and sleeping car company, incorporated or unincorporated, doing business in this Commonwealth, shall pay to the State Treasurer a tax of eight mills upon the dollar upon the gross receipts of said corporation, company or association, limited partnership, firm or co-partnership, received from passenger and freight traffic transported wholly within this State, and from telegraph, telephone or express business done wholly within this State, or from business of electric light companies, *or from business of artificial gas companies*, and from the transportation of oil done wholly within the State; the said tax shall be paid *annually* in the month of January of each year for the last preceding calendar year; and for the purpose of ascertaining the amount of the same, it shall be the duty of the treasurer or other proper officer of the said company, firm, co-partnership, limited partnership, joint stock association or corporation, to transmit to the Auditor General a statement, under oath or affirmation, of the amount of gross receipts of the said companies, co-partnerships, corporations, joint stock associations or limited partnerships, derived from all sources, and of gross receipts from business done wholly within the State, during the preceding *calendar year*, and if any such company, firm, co-partnership, joint stock association, or limited partnership or corporation, shall neglect or refuse for a period of thirty days after such tax becomes due to make said returns or to pay the same, the amount thereof, with an addition of ten per centum thereto, shall be collected for the use of the Commonwealth as other taxes are recoverable by law: *Provided*, That in any case where the works of one corporation, company, joint stock association or limited partnership are leased to and operated by another corporation, company, association or limited partnership, the taxes imposed by this section shall be apportioned between the said corporations, companies, associations or limited partnerships in accordance with the terms of their respective leases or agreements, but for the payment of the said taxes the Commonwealth shall first look to the corporation, company, association or limited partnership, operating the works, and upon payment by the said company, corporation, association or limited partnership of a tax upon the receipts as herein provided derived from the operation thereof, the corporation, company, joint stock association or limited partnership from which the said works are leased, shall not be held liable under this section for any tax upon the proportion of said receipts received by it as rental for the use of said works."

TAXES PROPOSED, BUT NOT RECOMMENDED.

Certain taxes are proposed which, in the opinion of your Committee, it is not wise to lay—at least at this time.

MANUFACTURING CORPORATIONS — TAX ON CAPITAL STOCK.

The long settled policy of the Commonwealth has exempted manufacturing corporations from capital stock tax. Under this policy, combined with our natural advantages, manufacturing has grown until Pennsylvania has taken the lead of all the States in this regard. Compared with her principal rivals:

Pennsylvania had in 1909 \$2,749,006,000 invested in manufacturing, and out of a total product valued at \$2,626,742,000, 78.2 per cent., valued at \$2,053,458,538, was from 27,563 establishments owned by corporations.

New York had \$2,779,497,000 so invested, and out of a total product valued at \$3,369,490,000, 62.6 per cent., valued at \$2,108,026,670, was from 44,935 establishments owned by corporations.

Massachusetts had \$1,279,687,000 so invested, and out of a total product valued at \$1,490,529,000, 72.1 per cent., valued at \$1,182,935,652 came from 11,684 factories owned by corporations.

The laws of neighboring commonwealths have gradually been attracted to our policy. As a result, New Jersey exempts manufacturing corporations entirely, if fifty per cent. of their capital is invested in the State, and exempts, in any event, so much of the capital as is actually invested in the State. New York exempts the amount of the capital invested in the State, provided forty per cent. is so invested. Ohio levies a tax of only one-tenth of one per cent., and the tax in West Virginia is nominal. Delaware exempts manu-

facturing corporations, with the exception of a nominal license tax. In Maryland there are various local exemptions of a complicated character, the result of which is that in the principal places manufacturing companies do not pay this tax.

Manufacturing corporations very generally ascribe the pre-eminence of our Commonwealth in large part to our tax policy. It is, of course, impossible to accurately determine how much of our position is due to this factor, and how much to natural advantages. It is unquestionable, however, that the imposition of a tax would tend not to attract, if not to drive away, industries, and when neighboring States offer exemption our position on taxation might turn the scale in many instances with regard to new industries, if it did not drive away those already here. Even the imposition of a small tax, so small as to be very little burden, would deprive the Commonwealth of the advertisement given by complete exemption, especially among those who do not seek details. Those of our cities and towns which are bidding for these industries insist that the laying of even a small tax would create fear of future increase. "Pennsylvania does not tax manufacturers," they claim has been the advertisement which has attracted many, and people of other States seeking to develop their own cities are appealing to the law-making bodies to make their States likewise attractive.

The manufacturer is the pioneer of new communities in the older States. Farming and trade centers have long since been located by reason of the character of the soil or the existence of natural routes of travel. The growth of new places depends on the manufacturer. Each new industry adds to the community a number of substantial wage-earners, and to supply their necessities, merchants and other business men must be drawn in. The farmer likewise finds in the dependents of manufacturing industries his principal customers. The imposition of a tax sufficient to yield any substantial revenue would also be

unfair to those struggling industries which have already located among us. The policy of the State has continued so long, since 1885), and is so well known that it amounts to almost a contract with such corporations.

Your Committee, in its report of 1911, recommended the imposition of a tax upon the capital stock of manufacturing corporations of one mill, thinking that this gradual beginning would not be appreciably felt, and at that time it was considered that the Federal Tax would not be so burdensome that the imposition of a small State tax would be serious. The protest from all parts of the Commonwealth, and not alone from the corporations affected, were such that the Legislature did not adopt the recommendation, and the hearings and arguments before your Committee in the last two years, together with the general agitation affecting corporations and the vigorous efforts being made all over the Commonwealth to secure the location of manufacturers within their borders have convinced them that it would not be wise to lay such a tax at the present time.

Were a start to be made anew, however, your Committee feels that a tax could be borne by some manufacturing corporations. To exempt "infant industries" and small and struggling concerns, and corporations which make a small rate of profit in proportion to the capital involved, or to tax such corporations at a lower rate than other more prosperous and financially sound concerns, seems to your Committee a wise policy. A discussion of this principle is contained elsewhere in this report in discussing the mercantile license tax. (See page 153.)

In view of the likelihood of securing the privilege of laying graded and progressive taxes in the near future, your Committee thinks that this matter of taxing manufacturing corporations might well be delayed until that time. The tax if laid can then be so adjusted that it will fall principally on the more prosperous concerns.

Laundry companies are manufacturers in effect and should be exempt. They are so classed by the Census

Bureau and the New York tax laws. They re-make a useless article into one almost new, like those who work over scrap of various kinds; and their labor cost—sixty per cent. of all expenses—is much greater than most manufacturers’.

The Act of May 12, 1911 (P. L., 287), amended the Act of 1901 regulating the affairs of cities of the second class (Pittsburgh and Scranton) so as to exempt machinery from the general provision authorizing the taxation of all property, real and personal. This is not fair to the manufacturing communities surrounding these two cities. All should be treated alike, and it would seem better that all should be exempt.

INHERITANCE TAXES.

The report of 1911 recommended a direct inheritance tax of one per cent. and presented a draft of an Act which combined such a tax with the existing collateral inheritance tax of five per cent. The Act also contained a provision for reciprocity between the States in matters of inheritance taxation, which is new to Pennsylvania, but is the law of New York, Massachusetts, Connecticut, Vermont, West Virginia and Kansas, and is in line with the most modern thought.

Inheritance taxes may be laid on the ground that the decedent was domiciled in the State or on the ground that the actual situs of the property is in the State. As a result, certain property is often taxed in one State on one ground and in another State on the other. This results in double taxation, and while double taxation is not repugnant to any constitutional provision, it is in practice most unjust. It is perhaps not so unfair when its operation is so certain that allowance can be made for it, but it is certainly unfair when it depends upon the accidental combination of domicile in one place and situs in another. A recognition in Pennsyl-

vania of the laying of inheritance taxes by reason of property being actually found in this Commonwealth is illustrated in the cases of Lewis's Estate, 203 Pa., 211 (criticised in Schoenberger's Estate, 221 Pa., 112), and *Singer vs. Trust Co.*, 24 Superior Ct., 270. Accordingly, it was provided in the draft act that in assessing inheritance taxes here, credit should be given for taxes paid upon the same property in another State, in cases where the decedent was domiciled in this Commonwealth. In cases where the property is in this Commonwealth, and the decedent domiciled elsewhere, the tax is only imposed here to the extent of its excess over the tax imposed in that other State, provided a like exemption is made by the laws of that other State in favor of our citizens.

This law was not enacted, and because of the very important action of the Legislature in another respect, your Committee does not again urge its enactment at this time. The subject should be held over until the constitutional amendment with respect to graded and progressive taxes is adopted or defeated, so that any change which may be made in the law can be made to cover the whole field.

GRADED TAXES.

In investigating the subject of inheritance taxes your Committee found that the practice was everywhere growing of taxing such property by graded or progressive rates; that is to say, of advancing the rate as the value of the estate or bequest or other thing taxed advances. Of the same nature, and dependent upon the same principles, is the practice of entirely exempting small estates, or other units of value from such taxation. In considering other subjects of taxation, your Committee found it desirable that small holdings should be exempted; as, for example, in proposing to tax bank deposits on time, bearing interest, as to which objection was made that it discouraged small savings by those who were seeking to acquire a home.

Pennsylvania in 1897 attempted to tax direct inheritances

in this way by exempting estates under \$5000. It was decided in *Cope's Estate*, 191 Pa., 1, that this violated the constitutional provision requiring uniformity in taxation. Accordingly, your Committee in 1911 recommended an amendment to the Constitution which would permit the laying of graded or progressive taxes in all fields of taxation, as well as in cases of inheritance. This resolution was adopted by the Legislature of 1911 (P. L., 1167), and is as follows:

A JOINT RESOLUTION, PROPOSING AN AMENDMENT TO SECTION ONE
OF ARTICLE NINE OF THE CONSTITUTION OF PENNSYLVANIA,
RELATING TO TAXATION.

SECT. 1. Be it resolved, etc., That the following is proposed as an amendment to the Constitution of the Commonwealth of Pennsylvania in accordance with the provisions of the eighteenth article thereof.

SECT. 2. Amend Section 1 of Article 9 of the Constitution of Pennsylvania, which reads as follows:

"All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity," so as to read as follows:

All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws, *and the subjects of taxation may be classified for the purpose of laying graded or progressive taxes*, but the General Assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity.

An Act should be passed directing that the amendment be submitted to the people at the elections of November, 1913.

As this resolution will come before the present Legislature for action, and as your Committee earnestly urges its

adoption, it will be desirable to state here some of the considerations in its favor.

The income taxes and inheritance taxes of England, and other countries of Europe, and of all of the provinces of Canada, are graduated in their rates. The first State of the Union to apply such a principle was Ohio (where, however, it was declared unconstitutional), and it has now spread, so that progressive inheritance taxes are in force in the following States and dependencies:

Arkansas,	New York,
California,	North Carolina,
Colorado,	Oklahoma,
Delaware,	Oregon,
Idaho,	Porto Rico,
Illinois,	South Dakota,
Kansas,	Tennessee,
Maine,	Texas,
Massachusetts,	Washington,
Minnesota,	West Virginia,
Nebraska,	Wisconsin.

Of these the State of Tennessee has such rates for direct heirs only, and the following States have such rates for collateral heirs only:

Arkansas,	Oklahoma,
Colorado,	Oregon,
Delaware,	South Carolina,
Nebraska,	Texas,
North Carolina,	Washington.

A table showing the various rates in force will be found at page 187.

The principal argument in favor of a graded tax is that it causes the burden of the tax to fall upon those best able to bear it. It also puts the burden more heavily upon those who draw more heavily upon the benefits conferred by Government. It is acknowledged that the rich man calls more often upon the aid of the law in his protection, or in the assertion

of his rights, than does the poor man in proportion to their respective wealth. The beneficial effect of such a tax upon the keeping down of swollen fortunes, both when applied as an income tax and as an inheritance tax, is obvious. In inheritance taxes, especially, graduation tends to reduce the accumulation of large fortunes by devolution at death upon those who have not earned them, and who, by reason of youth and inexperience, are often least able to wisely care for and expend them. It is, therefore, the opinion of the leading economists that this principle of graduation is more properly applicable to inheritance taxes than to any other branch of taxation. Mr. Edwin R. A. Seligman, Professor of Political Economy and Finance in Columbia University, a leading authority on taxation, and a member of the New York State Commission of 1906, fully discusses this question in his work on "Progressive Taxation," pages 213 and 215, with the conclusion, "That the theory of progression is more applicable to the Inheritance Tax than to any other part of the fiscal system; and that * * * some scale of progression is both desirable and practicable."

Mr. Max West, in his work on the Inheritance Tax, at pages 221 and following, points out that a progressive tax was recommended by John Stuart Mill; that there is great danger to business and society in the inheritance of fortunes by inexperienced young men; that there is no reason why the right of inheritance should be unlimited; that taxation during the lifetime of a man falls more heavily upon the poor than upon the rich, particularly by reason of the fact that during life the large fortune more easily escapes taxation than the small fortune, and the Inheritance Tax compensates in some measure for the inequalities thus occasioned. The most forceful argument is that "The sacrifice involved in paying a proportional tax is less for the wealthy than for the poor."

Since the report of your Committee in 1911, the States of Kansas, Maine and Oklahoma have entered the field of progressive taxation of inheritances, and Wisconsin of in-

come, both individual and corporate. It is characteristic of Oklahoma—embracing each reform with excess of ardor—that her rates advance to the point where they are confiscatory of the whole estate when a value of one million dollars is reached. The validity of this has not yet been passed upon.

California, by an Act of 1911, has increased the rate of taxes to twenty-five per cent. where an estate of over \$500,000 passes to remote relatives and strangers in blood.

The principle of graduation has been sustained by the United States Supreme Court as not being repugnant to the Fourteenth Amendment, in the case of *Magoun vs. Trust and Savings Bank*, 170 U. S., 283 (1898). The same result has been reached in many of the States which have provisions in their constitutions requiring uniformity of taxation. With constitutional authority thus granted to grade the tax, the rate may vary according to the nearness or remoteness of the relationship of the beneficiary and may increase for the whole estate as the whole value of the estate increases, or may increase only for the excess of the value of the estate over the value fixed for the next preceding class. The latter is the fairest method, but the former is not unusual and not repugnant to constitutional principles. The most highly developed instance of a progressive tax reached is contained in the Wisconsin Income Tax Law of 1911. This divides net incomes into classes of which the first is \$1,000, taxed at one per cent., and which increase by steps of \$1000 in the value of the estate and one-quarter of one per cent. in the rate, until \$12,000 of value and six per cent. of tax is reached, the increased tax being laid in each case only on the excess over the previous class.

Rather than disturb the system of Inheritance Taxation piecemeal, we think it would be wiser to await the adoption of this constitutional amendment—if it be adopted—before entering into such subjects as the grading of the tax according to the degree of relationship—which may be done now, as witness the exemption of direct inheritances; the adoption of reciprocal provisions as above outlined; the attempt to tax residents of a foreign country at a higher

rate than our own citizens (which is valid in the absence of treaty restrictions); and the attempt to tax residents of other States at a higher rate than residents of this State (which is probably invalid under the provision of the Constitution of the United States giving to citizens of other States the same privileges and immunities as are given to citizens of our State); and such advanced attempts to tax personal property which has its situs in the State, as the law requiring a representative of the State to be present whenever a safe deposit vault within the State is opened after the death of the late owner.

EXEMPTION OF BEQUESTS TO CHARITY.

A reform, however, which should be immediately put in force and become a permanent policy of the State, is the exemption from the inheritance tax of bequests to our own charities. When with one hand we pay out such large amounts of State money to charities, why should we with the other hand snatch a small amount of tax from the gift by an individual? There is no reason, however, for extending this exemption for the benefit of charities abroad. As charities are almost invariably incorporated, and as corporations are not citizens within the meaning of the Constitution of the United States, and foreign corporations are not therefore entitled to the rights of domestic corporations, the discrimination would be valid. (*Board of Education vs. Illinois*, 203 U. S., 553.) The exemption would not offend our own Constitution if confined to "institutions of purely public charity." (Art. 9, Sec. 1.) A draft of an Act to accomplish this purpose will be found at page 186.

(Mr. Alter does not concur in this recommendation.)

AN ACT TO EXEMPT FROM THE PAYMENT OF INHERITANCE TAXES BEQUESTS AND DEVISES TO INSTITUTIONS OF PURELY PUBLIC CHARITY.

SECT. 1. Be it enacted, etc., That hereafter all bequests and devises to institutions of purely public charity shall be exempt from liability for inheritance taxes: *Provided*, That this shall not apply to institutions incorporated under the laws of any other State or country.

	Direst inheritances.		Collateral inheritances.	
	Rate.	Exemption.	Rate.	Exemption.
Alabama -----		Not taxed	-----	Not taxed
Arizona -----		Not taxed	-----	Not taxed
Arkansas* -----	1%	\$5,000	2-6%	\$1,000-2,000
California -----	1-5%	10,000-24,000	2½-25%	500-2,000
Colorado -----	2%	10,000	3-10%	500
Connecticut*a -----	1%	10,000	5%	500
Delaware -----		Not taxed	1-5%	500
District of Columbia -----		Not taxed	-----	Not taxed
Florida -----		Not taxed	-----	Not taxed
Georgia -----		Not taxed	-----	Not taxed
Hawaii -----	2%	1,000	5%	500
Idaho -----	1-3%	4,000-10,000	1½-15%	500-2,000
Illinois -----	1-2%	20,000	2-10%	500-2,000
Indiana -----		Not taxed	-----	Not taxed
Iowa*b -----		Not taxed	5%	1,000
Kansas -----	1-5%	5,000	3-15%	1,000
Kentucky -----		Not taxed	5%	500
Louisiana c -----	2%	10,000	5%	Nothing
Maine -----	1-2%	500-1,000	4-7%	500
Maryland* -----		Not taxed	5%	500
Massachusetts -----	1-2%	1,000-10,000	3-5%	1,000
Michigan -----	1%	2,000	5%	100
Minnesota -----	1-4½%	3,000-10,000	3-15%	100-1,000
Mississippi -----		Not taxed	-----	Not taxed
Missouri -----		Not taxed	5%	Nothing
Montana* -----	1%	7,500	5%	500
Nebraska -----	1%	10,000	2-6%	500-2,000
Nevada -----		Not taxed	-----	Not taxed
New Hampshire -----		Not taxed	5%	Nothing
New Jersey -----		Not taxed	5%	500
New Mexico -----		Not taxed	-----	Not taxed
New York -----	1-4%	5,000	5-8%	1,000
North Carolina d -----	¾%	2,000	1½-15%	2,000
North Dakota -----		Not taxed	2%	25,000

	Direst inheritances.		Collateral inheritances.	
	Rate.	Exemption.	Rate.	Exemption.
Ohio* -----		Not taxed	5%	100-500
Oklahoma e -----	1%	5,000-10,000	1½-5%	100-500
Oregon f -----	1%	5,000	2-6%	500-2,000
Pennsylvania -----		Not taxed	5%	250
Porto Rico -----	1-3%	200	3-9%	200
Rhode Island -----		Not taxed		Not taxed
South Carolina -----		Not taxed		Not taxed
South Dakota -----	1%	5,000-20,000	2-10%	100-500
Tennessee* -----	1-1¼%	5,000	5%	250
Texas -----		Not taxed	2-12%	500-2,000
Utah* -----	5%	10,000	5%	10,000
Vermont -----		Not taxed	5%	Nothing
Virginia -----		Not taxed	5%	Nothing
Washington* -----	1%	10,000	3-12%	Nothing
West Virginia -----	1-3%	10,000-15,000	3-15%	Nothing
Wisconsin -----	1-3%	2,000-10,000	1½-15%	100-500
Wyoming* -----	2%	10,000	5%	500

* The exemption in the States marked with an asterisk has been construed to apply to the estate as a whole rather than to individual shares.

a Connecticut—For non-residents, exemption varies according to portion within the State.

b Iowa taxes non-resident aliens 10-20%.

c Louisiana exempts property that bore its just portion of taxes during owner's life.

d North Carolina—Exempts husband or wife.

e Oklahoma—The tax increases progressively, so that a literal construction would result in confiscation of all in excess of certain amounts in large estates.

f Oregon—Exempts entire estate if less than \$10,000; direct, \$500 to \$5,000 collateral.

INCREASE OF PRESENT TAXES.

In one direction an increase can easily be made in existing taxes, which can then be applied justly toward the meeting of an item of expenditure directly related thereto. This is the

AUTOMOBILE LICENSE TAX.

The report of 1911 recommended the increase of the license taxes on automobiles from five, ten and fifteen dollars to twenty-five, fifty and seventy-five dollars respectively, but as the Legislature did not adopt this recommendation, presumably because considered excessive, your Committee now recommends a less increase.

Attention was then called to the fact that at the old rates a revenue of \$391,010 was derived from these licenses alone, and that at the proposed new rate a revenue of \$1,954,550 would be had, assuming that the same number of vehicles was registered. What this increase in number is likely to be may be judged from the fact that the number of vehicles registered, and the amount of license fees paid for the year 1912, is as follows:

Classification.	Number.	Rate.	Amount.
Vehicles less than 20 horse power-----	13,670	\$5 00	\$68,350
Vehicles, 20 horse power, but less than 50 horse power -----	43,571	10 00	435,710
Vehicles, 50 horse power or more-----	980	15.00	14,700
Total-----	58,221	-----	\$518,760
In addition there was received:			
Dealers' registrations -----	3,555	\$5 00	\$17,775
Motor cycle registrations-----	7,298	2 00	14,596
Chauffeurs' licenses -----	20,534	2 00	41,068
Special juvenile licenses -----	701	2 00	1,402
Transfer fees -----	2,681	1 00	2,681
Duplicate fees -----	1,420	1 00	1,420
Postage -----			21 19
Grand total-----			\$597,723 19

The figures for 1911 are as follows:

Classification.	Number.	Rate.	Amount.
Vehicles less than 20 horse power.....	14,357	\$5 00	\$71,785 00
Vehicles, 20 horse power, but less than 50 horse power	28,210	10 00	282,100 00
Vehicles, 50 horse power or more.....	715	15 00	10,725 00
Total.....	43,282	-----	\$364,610 00
In addition there was received:			
Dealers' registrations	4,034	\$5 00	\$20,170 00
Motor cycle registrations	4,826	2 00	9,652 00
Chauffeurs' licenses	16,176	2 00	32,352 00
Special juvenile licenses.....	875	2 00	1,750 00
Transfer fees, etc.			989 50
Grand total.....		-----	\$429,523 50

The increase in revenue thus shown is gratifying. But with the demand for the improvement of highways, largely the result of the greatly increased use of automobiles, there is no reason why this source of income should not be drawn upon still more. The present law provides that the automobile license fees shall be used for the improvement of the roads, as do the laws of New Jersey, Massachusetts and Connecticut, all of which States prescribe rates in excess of our present maximums. This tax can be collected with absolute certainty. The automobile is a luxury which can easily bear the increased tax, and if the amount realized was expended in the improvement of the roads, the owners of the automobiles would be so benefited that they would doubtless cheerfully pay it. At the same time it would be a great relief to local communities which are put to additional expense in maintaining road surfaces injuriously affected by automobile traffic.

It is proposed to adopt a constitutional amendment giving the Commonwealth power to borrow money

to improve the highways, and, in the opinion of your Committee, this is highly desirable. It has been urged, and we recognize that, except in extraordinary instances, current expenditures should be made out of current revenues. If the automobile license fees and receipts from other taxes increase the revenue enough for the improvement of the highways, it would not be necessary to make use of the constitutional amendment, if adopted, except to accomplish the improvements years before they could be had by the normal tax increase. The demand for highway betterment is too strong to await delay. The people need the roads, and it is but fair that the cost of construction, which will last for many years, should be distributed over such a period. If the State debt is created, however, the automobile license fees should provide a revenue for the interest and sinking fund of these highway bonds. The burden of these improvements should not be laid upon the taxpayers of the various localities. They have already done their part in the original laying out of the roads, and should not be called upon to meet the increased expenses of construction and maintenance made necessary, in a large part, by the tremendous growth in the use of these modern conveyances which heretofore have been looked upon as luxuries, but which are rapidly becoming necessities. The roads are highways, open for and used by all of the people of the Commonwealth, and they should be so considered and cared for. There is a country-wide movement for improvement of roads, and Congress is expected to appropriate many millions for this purpose to be divided among the States in proportion to the improvement done by the States, so that, as the share of this Commonwealth will depend upon our efforts to help ourselves, we should do our utmost to accomplish the greatest possible results. Accordingly, we recommend the increase in the automobile license fees as a part of the scheme of highway improvement.

In view of the refusal of the last Legislature to increase all license fees, your Committee recommend an increase for business automobiles used primarily for conveyance of goods. The fee should be \$25 for those having a capacity of five tons or less, and \$50 for those having a greater capacity. Their weight and solid tires wear the roads more than any other vehicle and they should be classified by themselves. The Act to accomplish this will be found at page 193.

The resolution of the Legislature of 1911 looking toward an amendment of the Constitution in respect to highway bonds is found at page 1162 of the Pamphlet Laws of that year, and is as follows:

A JOINT RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE 9, SECTION 4, OF THE CONSTITUTION OF THE COMMONWEALTH OF PENNSYLVANIA, AUTHORIZING THE STATE TO ISSUE BONDS TO THE AMOUNT OF FIFTY MILLIONS OF DOLLARS FOR THE IMPROVEMENT OF THE HIGHWAYS OF THE COMMONWEALTH.

SECT. 1. Be it resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, That the following amendment to the Constitution of the Commonwealth of Pennsylvania be, and the same is hereby, proposed, in accordance with the eighteenth article thereof:

That Section 4, of Article 9, which reads as follows:

“SECT. 4. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiency in revenue shall never exceed, in the aggregate at any one time, one million of dollars,” be amended so as to read as follows:

SECT. 4. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or to pay existing debt; and the debt created to supply deficiencies in revenue shall never exceed, in the aggregate at any one time, one million of dollars: Provided, however, That the General Assembly, irrespective of any debt, may authorize the State to issue

bonds to the amount of fifty millions of dollars for the purpose of improving and rebuilding the highways of the Commonwealth."

This is in effect the recommendation of your Committee in its previous report, as found at page 130, where a resolution was proposed to amend the Constitution, using the words "construct and improve its public highways" in place of the words "improving and rebuilding the highways of the Commonwealth," and making other changes in the arrangement of the section. The resolution as adopted also fixes a limit of \$50,000,000 in the amount of such bonds, which was not part of the recommendation of your Committee.

While there is no reason apparent for the change in the form of the resolution, it fulfills the purpose of your Committee, and we earnestly urge that it be again adopted so that it may be submitted to the people. With this power in their hands, and provided with revenue to meet the obligations, the Legislature will have power to adopt either method as the public need may from time to time demand.

AN ACT TO AMEND SECTION 2 OF AN ACT ENTITLED "AN ACT RELATING TO MOTOR-VEHICLES: REGULATING THEIR SPEED UPON THE PUBLIC STREETS AND HIGHWAYS OF THE COMMONWEALTH OF PENNSYLVANIA; PROVIDING FOR THEIR REGISTRATION, AND THE LICENSING OF OPERATORS, BY THE STATE HIGHWAY DEPARTMENT; ESTABLISHING THE RIGHTS OF MOTOR-VEHICLES UPON THE PUBLIC HIGHWAYS, WITH RELATION TO OTHER VEHICLES; REGULATING THE SERVICE OF PROCESS AND OF PROCEEDINGS IN ACTIONS FOR DAMAGES ARISING THEREFROM; PRESCRIBING THE PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THIS ACT, AND PROVIDING FOR THE DISPOSITION OF FINES IMPOSED THEREUNDER." APPROVED APRIL 27, 1909.

SECT. 1. Be it enacted, etc., That Section 2 of an Act entitled "An Act relating to motor-vehicles: regulating their speed upon the public streets and highways of the Commonwealth of Pennsylvania, providing for their registration, and the licensing of

operators, by the State Highway Department; establishing the rights of motor-vehicles upon the public highways, with relation to other vehicles; regulating the service of process and of proceedings in actions for damages arising therefrom; prescribing the penalties for violations of the provisions of this Act, and providing for the disposition of fines imposed thereunder." Approved April 27, 1909, which reads as follows:

"SECT. 2. Application for the registration of motor-vehicles shall be made to the State Highway Department, or to a lawful agent appointed by the Highway Commissioner. The application shall contain the name, place of residence, and correct post-office address of the owner; with a brief description of the motor-vehicle, stating the name of the maker, the manufacturer's number, the character of the motive power, and the rated horse-power. The said application shall be made upon a blank provided for the purpose by the State Highway Department. It shall be signed by the owner, and be verified by oath or affirmation. Upon receipt of the application, and a fee of five dollars (\$5.00) for motor-vehicles of less than twenty horse-power, ten dollars (\$10.00) for motor-vehicles of twenty horse-power or more and less than fifty horse-power, and fifteen dollars (\$15.00) for motor-vehicles of fifty horse-power or over, or in the case of a motor-cycle, two dollars (\$2.00), the State Highway Department shall register the said motor-vehicle or motor-cycle in a book to be kept for that purpose; and shall issue to the owner a registration certificate, and two (2) number tags having thereon the registration number, the figures of which shall be not less than five (5) inches in height, the maker's number of the car, the abbreviated name of the State, and the year: Provided, however, That non-residents of this Commonwealth shall be exempt for a period of ten (10) days from the provisions of this section, if they have complied with the requirements of the State in which they reside, and display upon their motor-vehicle number-tags that indicate the State by which they are issued and their register number: Provided further, That this privilege shall not apply to residents of States which do not extend similar privileges to residents of this Commonwealth: Provided further, That motor-cycles under this Act, in lieu of the specific form of tag or tags as required herein, shall be required to have painted or attached on the rear mud-guard of such motor-cycle the registration number, in letters and figures of not less than three inches in height and not less than three-eighths of an inch in width, which shall be displayed in some conspicuous

color or design other than that of which the said motor-cycle is painted; but no metal sign shall be required in order that the said letters and figures can be plainly readable. The manner of numbering said motor-cycles shall be regarded as a compliance with the terms of this Act, as though a tag or tags had actually been furnished and supplied by the said Highway Department. Any neglect or failure to carry out the terms or provisions of this section as to numbers shall be construed and regarded as a violation of this Act, with the same force and effect as though the provisions herein mentioned in regard to tag or tags had been violated.

"Applicants for registration or license who reside outside of this State shall, in addition to the above requirements, designate in their application a resident of this State as their authorized agent upon whom process may be served," be and the same is hereby amended to read as follows:

SECT. 2. Application for the registration of motor-vehicles shall be made to the State Highway Department, or to a lawful agent appointed by the Highway Commissioner. The application shall contain the name, place of residence, and correct post-office address of the owner; with a brief description of the motor-vehicle, stating the name of the maker, the manufacturer's number, the character of the motive power, and the rated horse-power, *and whether the vehicle is adapted to be used primarily for the conveyance of goods.* The said application shall be made upon a blank provided for the purpose by the State Highway Department. It shall be signed by the owner, and be verified by oath or affirmation. Upon receipt of the application, and a fee of five dollars (\$5.00) for motor-vehicles of less than twenty horse-power, ten dollars (\$10.00) for motor-vehicles of twenty horse-power or more and less than fifty horse-power, and fifteen dollars (\$15.00) for motor-vehicles of fifty horse-power or over, or in the case of a motor-cycle, two dollars (\$2.00), the State Highway Department shall register the said motor-vehicle or motor-cycle in a book to be kept for that purpose and shall issue to the owner a registration certificate, and two (2) number tags having thereon the registration number, the figures of which shall be not less than five (5) inches in height, the maker's number of the car, the abbreviated name of the State, and year: Provided, however, That non-residents of this Commonwealth shall be exempt for a period of ten (10) days from the provisions of this section, if they have complied with the requirements of the State in which they reside, and

display upon their motor-vehicle number-tags that indicate the State by which they are issued and their registry number: Provided further, that this privilege shall not apply to residents of States which do not extend similar privileges to residents of this Commonwealth: Provided further, That motor-cycles under this Act, in lieu of the specific form of tag or tags as required herein, shall be required to have painted or attached on the rear mud-guard of such motor-cycles the registration number, in letters and figures of not less than three inches in height and not less than three-eighths of an inch in width, which shall be displayed in some conspicuous color or design other than that of which the said motor-cycle is painted; but no metal sign shall be required in order that the said letters and figures can be plainly readable. The manner of numbering said motor-cycles shall be regarded as a compliance with the terms of this Act, as though a tag or tags had actually been furnished and supplied by the State Highway Department. Any neglect or failure to carry out the terms or provisions of this section as to numbers shall be construed and regarded as a violation of this Act, with the same force and effect as though the provisions herein mentioned in regard to tag or tags had been violated.

Applicants for registration or license who reside outside of this State shall, in addition to the above requirements, designate in their application a resident of this State as their authorized agent upon whom process may be served.

Provided further, That in case of motor vehicles adapted to be used primarily for the conveyance of goods, the registration certificate shall state that it is issued for such a vehicle, and the number tags issued for and to be borne by such vehicle shall have thereon the word "truck;" and the fee to be paid on application for registration of such vehicles shall be twenty-five dollars (\$25.00) for vehicles having a carrying capacity of five (5) tons or less, and fifty dollars (\$50.00) for all others.

(D) COLLECTION OF REVENUE.

The modern tendency is to centralize, so far as possible, both the assessment and collection of revenue, even going so far as to require the principal revenue to be collected by the State and then to be returned, in whole or in part, to the localities which need it. The advantage is in the efficiency which comes from the experience of the permanent officials of a State department, the superior quality of the men thus secured to supervise, and above all the freedom from local influence upon assessors who depend for their office upon the neighbors whom they have to assess. Various problems are solved in this way.

One of the most serious is the question as to how far the property and franchises of public service corporations should be taxed in the localities where they are situated. California has had this problem in a very serious form. The railroads have by far the greatest amount of trackage in counties with few inhabitants. In the mountains, where there is little population, are situated enormous water power plants, which send electricity to the towns hundreds of miles away. These tracks and plants should be taxed in proportion to their real value, but the benefit should go to the population in the large centres which they really serve. In 1911, therefore, a State system of taxing public utilities was adopted and local taxation entirely lifted.

The same problem exists in Pennsylvania, in a less aggravated form. The right of way, depots, wires etc., of railroads, telegraph companies, and the like, so far as they are an integral part of the plant, and necessary for the operation of the franchise, are exempted from local taxes. This is not by reason of any express provision, but by virtue of the settled construction of the law with respect to capital stock tax and gross receipts tax, through which these assets are in fact reached, though the real estate of private corporations

paying capital stock tax is not so exempted. In Philadelphia, and Pittsburgh however, by various special acts, certain real estate has been subjected to such taxation. The right of way of railroads and similar property extending through many communities and valuable only as a whole could not properly, under any system, be subjected to the varying estimates in piecemeal of local bodies. The same applies to telegraph lines, etc.

The argument in favor of the present exemptions is that a railroad depot, for example, has practically no value, apart from the value of the land, except in connection with the tracks. Indeed, it may be a real burden to the land. It is, therefore, difficult to value a depot structure as a piece of local real estate. But it partakes of the benefits of the local government, and the taxing authorities look upon it with the desire to make it share the expense of local government. A system by which the special exemptions for Philadelphia and Pittsburgh could be done away, and such property all over the Commonwealth taxed by a central authority as a whole, and the proceeds of the tax then returned to the locality would be the proper solution. The return to the locality would not be proportioned to the part of the property there situated, but to the necessities of the community. This could be done by taking the ratio of assessed value in each county and returning to the county its proper proportions as thus determined, on the principle that the necessities for revenue will probably vary in proportion to the value of property generally in the county. This would be an incentive to the local authorities to place property in their districts at full value, because the sum received from the State would increase with the increase in that value. It is the method now used by New Jersey and West Virginia, and is earnestly and ably advocated by the State Grange.

When such a system is put into operation the problem at once arises—on what basis should the vast and varied property of a railroad system be valued as a whole? Shall it be on the basis of original cost, or of the

present cost of duplication, or on a fair inventory value, made up as a compromise between all the factors obtainable? For railroad properties are not bought and sold, so as to have a market value like ordinary real estate. Attempts at a "physical valuation" of railroads by other States have consumed a long period of time and large sums of money. In the end the valuation fixed was only an estimate, affected by the prepossessions and abilities of the tax commissioners as well as their fairness.

As a substitute for this unsatisfactory method a recognized authority, Mr. Allen Ripley Foote, has proposed a tax on gross receipts at a flat rate with a differential varying according to the success of operation as shown by the ratio of gross receipts to operating expenses. This would have the advantage of doing away with the uncertainties and inequalities of property valuation. The tax would be easy to ascertain from the company's records, and would cost no time or money to collect. Authority should be given to adopt as the basis of compensation the figures reported to and approved by the Interstate Commerce Commission in determining what part of the revenue of an inter-State system shall be ascribed to business done within the State. It would not conflict with constitutional provisions because it is only an extension of our present system of exempting such property from local taxation. Other States meet with difficulties from the requirement that all property of all classes shall be taxed at a uniform *ad valorem* rate, while we are able to tax different classes in different ways according to the needs and difficulties of the special case.

A centralized system, however, except as the personal property tax, and the taxing of premiums of foreign fire insurance companies, collected locally and paid into the State Treasury, is again returned to the counties, is so at variance with the long settled practice of the Commonwealth and with a complicated system of local assessors and collectors, and various local taxes, that it is not only

a task of great difficulty to construct and substitute it at once, but it would be difficult to so put it into practical operation. The report of your Committee for 1911 suggested that a beginning might be made in the City of Philadelphia where the germ of such a system already existed by reason of an appointive board of revision of taxes, which in turn appointed the assessors, and thus constituted a body of officials superior on the whole in efficiency to such officers throughout the State elected only for short terms. The same system was put in operation in Pittsburgh in 1905. No recommendation, however, was made, but an Act was reported to accomplish the purpose, but it was not adopted. On further reflection, your Committee is so strongly of opinion that the proper step forward lies in this direction, and that a beginning should be made, not by way of experiment, but as an illustration, and for the accumulation of experience, that they do now strongly recommended such a system to be applied to some one or more counties, and will, if the Legislature desires, draft an Act to this end.

Upon the experience accumulated by this system methods could be developed which would gradually extend over the entire Commonwealth. At the same time, the Department of the Auditor General, if adequately equipped to handle this system, and to perform its other work as a central taxing authority, which is now required by law, would soon be in a position to assume the burden of a much greater State wide taxation, and eventually to hand over the work to a permanent State Tax Commission.

County officials and the Pennsylvania State Grange have urged that the real estate of railroads is part of the assets of the companies upon which capital stock tax is assessed, and which earn the gross receipts out of which another tax is collected. Therefore, it is said, part of these taxes should be returned to the counties. The difficulty in determining what part of these taxes comes from real estate grows out of the part played by many

other factors than the value of assets in both these taxes, such as indebtedness, market value of stock, cost of operation and the like. A more practical way would be to return to the counties part of the improved tax on corporate loans, elsewhere proposed (page 209), which will come largely from the railroads.

PERMANENT STATE TAX COMMISSIONS.

The number of these commissions and their varying powers over local assessments and assessors appear by the following compilation:

The State tax commissions, or commissioners, assess, in the first instance, some public utilities or other classes of property in Connecticut, Indiana, Kansas, Maryland, Massachusetts, Michigan, New York, Oregon, Vermont, Washington, Wisconsin and Wyoming.

They equalize or review, or may, on appeal, equalize or review local assessments in Alabama, Indiana, Kansas, Michigan, Minnesota, New Jersey, New York, North Carolina, Oregon, Washington, West Virginia, Wisconsin and Wyoming.

They have power to order or make reassessments when necessary in Alabama, Minnesota, New Jersey, Wisconsin and Wyoming.

They have power to examine books of firms and corporations, or to require them to report information relating to their financial affairs in Alabama, Indiana, Kansas, Michigan, Minnesota, New Jersey, North Carolina, Oregon, Texas, Vermont, Washington, Wisconsin and Wyoming.

They have general supervision over the assessment and taxation of property in the State, in Alabama, Kansas, Minnesota, North Carolina, Oregon, Washington, Wisconsin and Wyoming.

They confer with, aid or direct local assessors in Alabama, Indiana, Kansas, Massachusetts, Minnesota, New Jersey,

New York, North Carolina, Oregon, Washington, West Virginia, Wisconsin and Wyoming.

They visit the several towns or counties of the State to observe the manner in which the tax laws are administered, in Alabama, Connecticut, Indiana, Kansas, Massachusetts, Michigan, Minnesota, New York, North Carolina, Oregon, Texas, Washington, West Virginia, Wisconsin and Wyoming.

They enforce laws and penalties relating to assessments and taxation in Alabama, Indiana, Kansas, Massachusetts, Minnesota, North Carolina, Oregon, Washington, West Virginia and Wyoming.

They have power to summon or subpoena witnesses to testify before them or to administer oaths in Alabama, Connecticut, Indiana, Kansas, Michigan, Minnesota, New Jersey, New York, North Carolina, Oregon, Texas, Vermont, Washington, West Virginia, Wisconsin and Wyoming.

They prescribe books, blanks or forms for the use of taxing officers in Alabama, Connecticut, Indiana, Kansas, Massachusetts, Michigan, Minnesota, New York, Oregon, Washington, West Virginia and Wisconsin.

They have power to assess or order assessed property that has escaped assessment in previous years, in Michigan, North Carolina, West Virginia and Wyoming.

They devise a uniform system of keeping accounts for towns, cities and counties in Kansas, West Virginia and Wisconsin.

Colorado and North Dakota also have Tax Commissions recently organized.

It will be seen that the powers refer not merely to the equalization of property assessment so necessary where there is a constitutional imposition of the uniform property tax lest one county escape its share of the common burden by underassessment; but also in many cases quite a general supervision and power of direction over methods, individual evasions, appeals and the like. In Kansas they may even remove the local assessors. The Tax Commission of this State and those of Minnesota and Wisconsin are esteemed by the authorities to be the best organized of any.

AUDITOR GENERAL.

Attention was called in the previous report to the fact that the personnel of the Auditor General's Office is insufficient to do the work now required of him by law. Only one corporation tax clerk, with the assistance of the chief clerk and clerical assistants, is provided for the whole matter of assessment of corporation taxes, which, for the year ending November 30, 1911, amounted to \$16,650,753.42.

In such a system, the bulk of the work done is that in the office, making up statements from the returns furnished by corporations. The investigation of the truth of the facts so stated outside of the office is a physical impossibility, and tax dodging is not insurmountably difficult to corporation officials with sufficiently small consciences. This statement is not intended as a reflection upon the corporations of Pennsylvania as a whole, but there has been sufficient of evasion and attempted evasion to justify the criticism.

By an existing law, (Act of 1905, P. L. 186), the Auditor-General is charged with extensive powers in the supervision of the collection of personal property tax by local assessors and county commissioners, and the investigation of facts connected herewith. Without clerks to do the work, however, it cannot be done, and for lack of appropriation to pay their salaries there are no clerks. The work, therefore, has not been done, and, though the law has been on the Statute Book for so many years, and the lack of funds has been called specifically to the attention of the Legislature—it was so called in the report of your Committee for 1911—no appropriation has yet been made.

Your Committee recommended an Act providing for five additional clerks in the office of the Auditor General. The Legislature passed an Act reorganizing and largely adding to the Auditor General's force. It went beyond your Committee's recommendation, in that it provided for traveling auditors to investigate the property of corporations upon the

ground with power to administer oaths. The Governor vetoed the Act because he was "not convinced that the increases authorized under the provisions of this bill are justified."

Your Committee renews its recommendations that there should be sufficient addition of efficient clerks to act under the direction of the Corporation Clerk in assessing of corporation taxes. The compensation of the Corporation Clerk, (now \$3,000 and inadequate), and the assistant clerks should be proportionate to the importance of the positions and the services required.

Another subject to be committed to the Department so organized would be the collection and distribution of the tax on anthracite coal, elsewhere recommended herein.

The Legislature of 1911 enacted in substance certain of the acts recommended by your Committee with respect to the collection of revenue as above pointed out.

But other statutes which your Committee thought of equal importance were not put in force. They, therefore, repeat them here, with notes explaining the purpose in view, and earnestly recommend the enactment of the same into law. (See page 213.)

Your Committee in its report of 1911, at page 202, in commenting upon the lack of facilities in the Auditor General's office to make investigations in the field of the value of corporate assets, and the consequent lack of means of checking the accuracy of the reports of corporations, called attention particularly to a case of abuse with regard to the building of The Girard Trust Company of Philadelphia. This cost \$1,500,000, which was paid out of surplus and charged off the books entirely, and was not reported to the Auditor General as an asset, and, accordingly, was not included in estimating the tax. In consequence of the public attention thus called, a capital stock tax was assessed against The Girard Trust Company for the year 1911 in which the value of this building was included, and upon appeal to the

Court of Common Pleas of Dauphin County, the assessment was sustained, resulting in the gain of \$8,796.56 to the Commonwealth. Other like cases probably exist.

PERSONAL PROPERTY TAX.

There was presented to your Committee a petition signed by many citizens, objecting to the present four mills tax upon mortgages and moneyed investments. It repeats the familiar strictures upon the evasion of the personal property tax which are contained in the report of every tax commission, to which rule your Committee, in its report of 1911, was not an exception. The attack is made, however, upon that part of the tax as to the collection of which the Commonwealth of Pennsylvania has been a conspicuous success rather than a failure, to wit, the tax on mortgages. It is quite true, as elsewhere pointed out, that other moneyed investments do escape taxation. But mortgages have to be recorded and are reported to the assessors by the Recorder of Deeds. The proposed reform is the introduction of a recording tax; that is to say, a tax laid upon the mortgage once and for all when it is recorded, to be collected by the Recorder of Deeds. This system is in force in the States of Michigan, Minnesota and New York, among others. It has the great advantage of simplicity and certainty. It has a disadvantage, however, that while mortgage loans are always made for a limited period of years, they often run on for many years before they are collected, without the execution or recording of extension agreements. In practice, therefore, the collection of the tax would be much more unequal than under the present system. The same tax would be collected on a mortgage which had an actual life of three years as upon one which was not satisfied for ten or more. A readjustment of the whole theory of the tax on mortgages would be a hardship upon existing loans of this character, and your Committee sees no good reason for changing it at this time.

So far, however, as Pennsylvania clings to the personal

property tax in vogue in other States by attempting to tax other moneyed investments, such as bank deposits and money loaned on general security and not evidenced by anything of record, she undoubtedly suffers the same failure as do other States, as the bulk of these is not taxed. The amount of such deposits is about \$7,500,000.

The reason for this failure is that the deposits are not returned by the owner, and the banks are not compelled to make any return. They could, of course, be required to make a return, as the corporations do for the purpose of loan tax, and these returns could be used to check the returns of the individuals, or, much more simply, could be used as the basis of assessing a tax which the bank could deduct from the interest paid the depositor, as is done with corporate loans. This was the system provided by the Act of April 30, 1864, (P. L. 218), which first put in force the present method, and applied, by its terms, to interest paid to depositors, as well as bondholders. Several objections are made to this, however. What is really the most weighty objection is that it would be effective and would result in the collection of the tax. This would be a hardship upon the depositor who would be required to pay a four-mills rate on an investment bringing him only from two to three per cent., or, in the case of the savings institutions, a little more. The flat rate of four mills for all interest-bearing investments is really unjust as applied to those who have a low interest rate, and actually results in a lack of uniformity of taxation, which has never been challenged in the courts. If this tax was really collected and the hardship felt, doubtless the question would have been raised. While we do not wish to be taken as assenting to any evasion of taxes, it does seem to your Committee that the present tax in theory laid on the interest-bearing bank deposits is such a hardship that any present change toward more efficient collection is inadvisable. When we have the power to lay graded taxes, so that the small deposit can be exempted entirely and similar adjustments made, it will be proper to resort more vigorously to this subject for revenue.

Another reason for not prosecuting this inquisition too closely is, that it is extremely doubtful whether national banks and postal savings banks could be compelled to make report. It may be done with the aid of an Act of Congress, as is now the case in regard to the capital stock of national banks. Until such an Act of Congress is put in force the tax would drive deposits away from State banks into the national banks.

CORPORATE LOAN TAX.

Another class of moneyed investment is also taxed with fair success. These are the loans of corporations held by residents of the State. The treasurer of the corporation is made the agent of the State in assessing and collecting the tax, and it is not returned by the holder to the local assessors. The abuse arises, however, out of the inability to tax such loans when held by non-residents. The Supreme Court of the United States has held that where the tax is laid upon the creditor who holds the security, it cannot be laid upon a non-resident, because he is not within the jurisdiction of the State, and the treasurer of the corporation cannot lawfully deduct the tax from the interest due. In the case of non-registered bonds, the treasurer of the corporation can only form an approximation of those which are held by non-residents. In returning to the Auditor General the tax upon those which are held by residents, it is safe to say that the officials of the corporation err, if at all, upon the safe side. As a result, many bonds which should properly be taxable escape.

Another class which is not taxable consists of the bonds of domestic corporations held by other domestic corporations which pay a capital stock tax. The difficulty of ascertaining what proportion of bonds is so held is the same as in the case of foreign-held bonds, and the same under appraisement of the tax doubtless exists.

The largest class which it is intended to tax, but which escapes taxation, is the bonds of foreign corporations held

by residents of Pennsylvania. The individuals are required to return these to the local assessors, but there is no means of checking the accuracy of the return. It is true that foreign corporations which do business in Pennsylvania so as to be actually within our reach can be compelled, like domestic corporations, to collect the tax from residents of Pennsylvania if the corporation actually pays the tax in Pennsylvania (New York, Lake Erie, etc., R. R. Co. *vs.* Pennsylvania, 153 U. S., 628). Attempt is made to enforce such a collection, but it seems to your Committee that it is awkward and an unfair discrimination to collect a tax from those corporations only which happen to have their fiscal agent in Pennsylvania. Beyond the present method with regard to these corporations your Committee has nothing to suggest, by reason of the inability to bring them further within our reach than is already done. In fact, for the sake of equality, it would be better to drop the whole practice. It produces confusion between the duty of the corporation to return the bonds for tax to the State authorities and the duty of the individual to return them to the local assessors. The individual cannot, in many cases, know whether the corporation is returning or not, and doubtless many individuals who have an easy conscience avail themselves of the difficulty without making too close inquiries to avoid returning the bonds for taxation themselves, just as they do in the case of bonds of foreign corporations which are issued tax free, as elsewhere noted.

It is estimated by the Auditor General that, owing to these exemptions, intended and otherwise, but ten per cent. of the loans of domestic corporations are taxed. Of those exempt, forty to forty-five per cent. are obligations held by trust companies, national banks, State banks that do not pay the four mills tax on or before March 1st, corporations liable to capital stock tax, corporations exempt by law from the payment of the four mills tax, to wit: Building and loan associations, savings fund institutions under the Act of 1909, (as to which see page 163),

benevolent and similar societies under the Act of 1911, (as to which see page 164), purely charitable institutions, religious institutions and loans upon which no interest has been paid during the year. All of these, so far as issued by corporations, would then be taxed. At the same time the change advised in the taxing of loans held by savings funds (see page 163), would still be necessary to reach money loaned to individuals. The Auditor-General also estimates that twenty per cent. escape taxation because held by non-residents, and twenty-five to thirty per cent. because the treasurers of corporations report that they are unable to locate the holders. As the tax for 1911 on the loans of corporations actually collected was \$2,079,523.93, an enormous increase may be achieved in this way.

As to bonds issued by domestic corporations, a method exists for bringing within our reach the bonds of such corporations held by non-residents, as well as the bonds held by residents, which, in practice, are not actually taxed. This is by placing the tax frankly upon the debtor corporation. Strive as we may to prevent by statute the shifting of tax on money at interest from the creditor to the debtor, the fact remains that the debtor pays it; the creditor simply adds the tax to the rate of interest, and will not lend his money unless he gets such rate. If he does not get it, he will invest his money elsewhere where it will not be so taxed. The existence in our large cities of the rate of 5.4 per cent. illustrates this. So, with our corporations the very wide existence of the practice by which the corporation agrees to pay the tax and promises a rate of interest which it pays without deduction to resident and non-resident alike, indicates that the tax really falls upon the corporation borrowing. In fact, in practice the rate of interest actually paid is reduced by the amount of the tax upon the belief that the corporation has to pay the tax, and then when it comes to pay it, a more liberal allowance is made for bonds held by non-residents than the facts justify. The result is an unintended gain to the corporations.

Why not, therefore, in the case of corporate loans, place the tax in theory where it falls in practice; that is, upon the corporation? Domestic corporations would then have to return for taxation all their loans. The amount realized would be greatly increased, and if the Auditor General was equipped with a sufficient force, he could easily check the amount returned by an inspection of the books of the corporation. No reasonable complaint of this tax can be made. Of the tax on loans collected in 1910, \$2,238,845.72, the steam railroads paid \$1,035,689.69, and, in view of the small amount of taxes paid by these railroads in Pennsylvania, as compared with the tax payments to other States, there would seem to be at least no ground of complaint from them, and no reason has been given to your Committee why such a tax would be a harmful burden to other corporations. See diagram facing page 210, showing taxes paid by railroads in the United States, to which the State Grange has called attention. An Act to accomplish this end is submitted herewith, (see page 212).

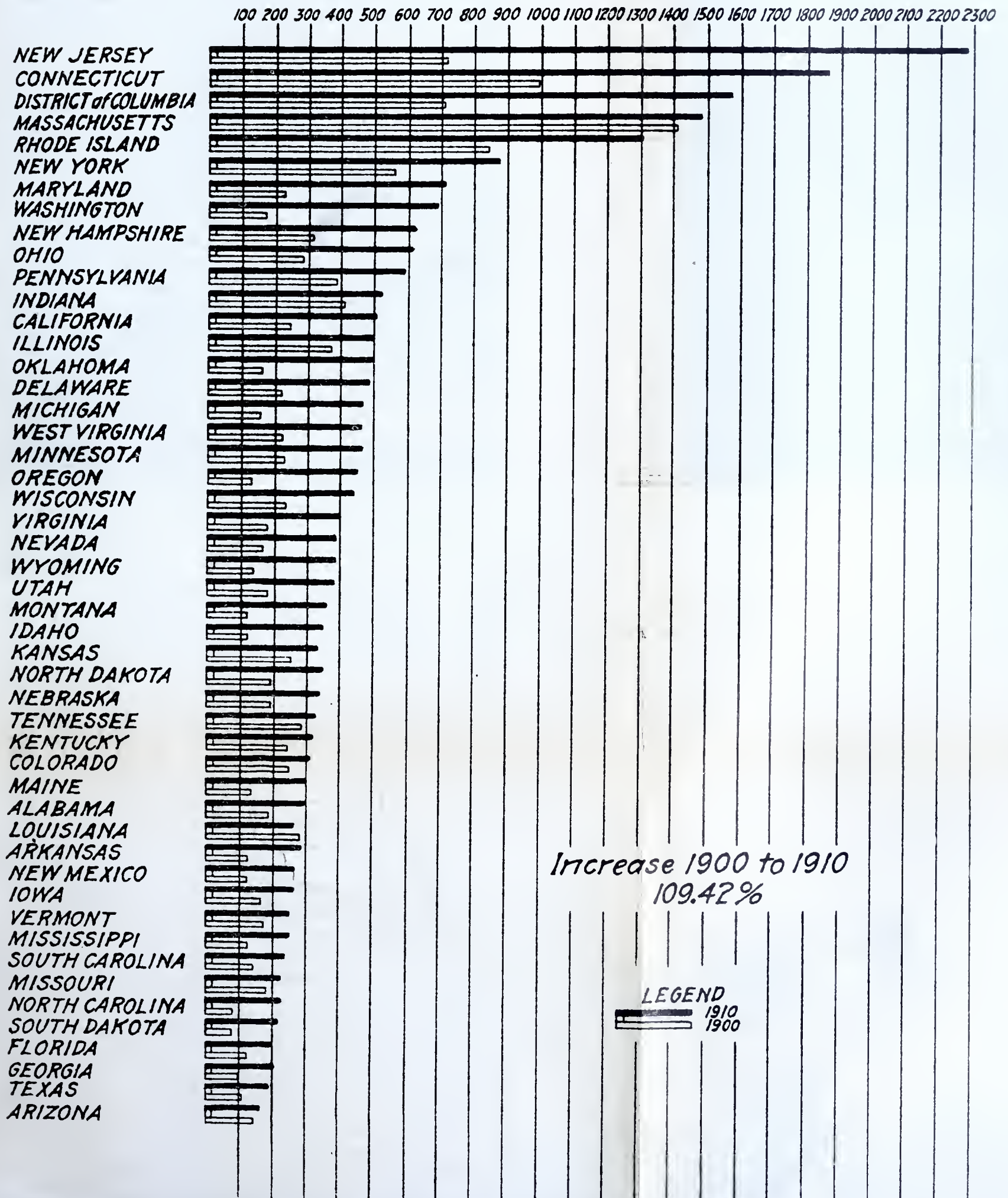
If this change is not made at least the present system should be strengthened by requiring the treasurers of corporations to report in greater detail their efforts to locate the residences of bondholders. An act tending to that end is recommended, which will be found at page 213.

PROCEDURE OF COLLECTION.

Probably the greatest abuse which now exists is the loose method of appeal to the Dauphin County Court from the settlement of amounts for taxes by the Auditor General and State Treasurer. The proper practice should undoubtedly be that the court may reconsider the action of the Auditor General in order that a judicial opinion may be had on questions of law and fact. For that reason there should be a real presentation to the Auditor General of the details of all the facts relied upon in each case, and the appeal should state specifically the matters appealed from. But the present practice is that reports are made to the Auditor General in

Diagram Showing TAXES PAID BY RAILROADS IN U.S. PER MILE OF MAIN TRACK 1900 to 1910

Statistics Interstate Commerce Commission



Scale: 1 in. = \$400

the most general way, stating conclusions and not details, and that the appeal from his settlement is taken generally without assigning reasons. On the hearing in the court, the matter is gone into as if it were an original proceeding, without any reference to what has taken place before the Auditor General. In most cases nothing whatever has taken place before the Auditor General. For lack of a record of this kind, and particularly for lack of a record of the details upon which each corporation makes its return, and the failure to present those details to the Auditor General, many instances of tax evasion occur. One of the most frequent, undoubtedly, is the case of a corporation holding the stock of another corporation. The holding company claims exemption from capital stock taxed upon so much of its capital stock as is invested in the stock of another corporation, on the ground that that corporation is liable to capital stock tax, and exemption is allowed. The subsidiary company then claims exemption on the ground that its stock is all held by another company, and enters into the value of the capital stock of that company, and, therefore, has already been taxed, and exemption is again allowed. For lack of a record of these facts there are no means of comparing the assessments of the two companies. Indeed, there is not anything in the Auditor General's office to show the names of the two companies, so that attention is not called to the relation of the two. If the Act previously recommended and printed herein at page 214 were enacted, the details would have to be given which would put in the hands of the Auditor General the means of thwarting this evasion.

-That any corporation should object to giving these details to the taxing officers, or to stating the grounds of their appeal, seems incredible. And yet at the appearance of these acts before the Legislature in 1911, corporations all over the State became aroused and descended upon Harrisburg with protests. It is still more incredible, though true, that the Legislature of 1911 gave heed to these protests, and failed to pass this legislation, which would have put many hundreds of thousands of dollars in the

State Treasury and have done away with a most shameful evasion of taxes.

Your Committee recommends the strict enforcement of our tax laws, and officials should see to it that commissions, interest and other proper charges are collected unless some overwhelming reason to the contrary appears. It frequently happens that corporations have the use of their money during years of delay on appeal, and yet no interest is collected from them. The laws are of little use unless enforced, and no amount of good legislation can provide revenue if there is improper laxity in the executive offices.

AN ACT TO PROVIDE REVENUE BY TAXATION.

SECT. 1. Be it enacted, etc., That all obligations for money borrowed, issued by any corporation of this Commonwealth, are hereby declared to be a separate class of property for purposes of taxation, and an annual tax of four mills upon each dollar of par value of such obligations is hereby laid, to be paid by the corporation. It shall be the duty of the treasurer of every such corporation, during the month of January of each year, to assess the said tax upon the par value of all such obligations for the previous calendar year, and to report the same to the Auditor General, and it shall be the duty of the Auditor General and the State Treasurer to settle accounts for the said tax as other accounts for State taxes are now settled. Said report shall be under oath, and for every failure to make report or to make payment of the said tax within sixty days after notice of the settlement of an account for the same, a penalty of ten per centum shall be added to the said tax. The Treasurer shall be entitled to a compensation of one per cent. of the amount paid.

SECT. 2. The tax laid by this Act is upon the debtor and not upon the holder of the obligation; but the said obligations in the hands of the holder shall be exempt from all other taxation now provided by law. -

SECT. 3. The word "corporation" as used in this Act shall include all corporations, joint stock companies, partnerships limited and partnership associations, organized under the laws of this Commonwealth, for profit and not for profit, and for whatever purpose organized.

SECT. 4. If any treasurer of a corporation shall fail to make the report to the Auditor General required by this Act he shall be deemed guilty of a misdemeanor and upon conviction be punished by a fine not exceeding \$1000 or imprisonment not exceeding six months, or either, or both, at the discretion of the court.

NOTE.

This method of laying the tax has a precedent in the fourth section of the Act of March 21, 1873, P. L., 46, which, however, was repealed by the Act of April 24, 1874, P. L., 72.

The first instance of the taxation of corporation loans in a different way from other loans, was the Act of April 30, 1864, P. L., 213, later superseded by the Act of May 1, 1868, P. L., 108. Under these two acts the decision above referred to was rendered by the Supreme Court of the United States, declaring that bonds held by non-residents were not taxable (*State Tax on Foreign-held Bonds*, 15 Wall., 300).

After having been wholly abolished by the above mentioned Act of 1874, the tax was re-established by the Acts of June 7, 1879, P. L., 120, and June 10, 1881, P. L., 99. Both of these were declared unconstitutional on the ground that they provided no machinery to assess the tax. Thereupon, the Act of June 30, 1885, P. L., 193, was enacted, under which Act and its amendments the tax is now collected. Under all these Acts the corporation was but the agent for collection and deducted the tax from the interest as paid to the bondholder.

Under the present law, of course, as in the proposed new law, the obligations are free from further tax in the hands of the holder.

AN ACT REGULATING REPORTS FOR THE PURPOSES OF TAXATION BY CORPORATIONS.

SECT. 1. Be it enacted, etc., That hereafter it shall be the duty of each treasurer of any corporation required by law to make a return for tax on loans to the Auditor General of this Commonwealth, to report on oath specifically and in detail the facts showing the kind and degree of his efforts to ascertain the residence of the holders of the scrip, bonds, certificates or other evidences of indebtedness issued by said corporation in order that it may affirmatively appear in his return that he has used the utmost diligence to ascertain said residence, and that the manner in which he has discharged the duty imposed by law to ascertain the amount of the indebtedness of such corporation owned by residents of this Commonwealth shall affirmatively appear in his return.

SECT. 2. No report of any such corporation not containing such information as is herein provided shall be received or filed by the Auditor General.

AN ACT REGULATING APPEALS FROM TAX SETTLEMENTS OF THE FISCAL OFFICERS OF THE COMMONWEALTH.

SECT. 1. Be it enacted, etc., In every appeal from a tax settlement of the fiscal officers of the Commonwealth an affidavit of the parties appellant, or some one of them, or one of their chief officers or of their agent or attorney, shall be filed that said appeal is not taken for the purpose of delay, but because appellants believe they have suffered injustice by the settlement from which they appeal. Said affidavit may be made before anyone authorized to administer oaths.

SECT. 2. On any appeal from a tax settlement of the fiscal officers of the Commonwealth no matter shall be subject to review or correction that was not brought to the attention of said officers in the reports or affidavits relating thereto, filed with said fiscal officers by said parties appellant.

AN ACT REGULATING REPORTS FOR THE PURPOSES OF TAXATION BY CORPORATIONS, JOINT STOCK ASSOCIATIONS AND LIMITED PARTNERSHIPS, ANY PART OF THE CAPITAL STOCK OR INDEBTEDNESS OF WHICH IS NOT TAXABLE UNDER THE LAWS OF THIS COMMONWEALTH.

SECT. 1. Be it enacted, etc., That hereafter it shall be the duty of the President, Chairman or Treasurer of any corporation, joint stock association or limited partnership required by law to make a report in writing to the Auditor General, and any part of the capital stock or indebtedness of which is not taxable under the laws of this Commonwealth, to add to said reports statements, under oath, setting forth in full the data on which exemptions from taxation under the laws of this Commonwealth are claimed, and otherwise to state specifically, under oath, all information necessary to determine the amount of exemption to which such corporation, joint stock association and limited partnership is entitled, and, in the case of companies operating partly in other States, and taxed on a mileage basis, to so state specifically the total mileage of said companies, as well as the mileage wholly within Pennsylvania, in order that the tax may be prorated according to such mileage.

SECT. 2. No report of any such corporation, joint stock association or limited partnership not containing such information as is herein provided shall be received or filed by the Auditor General.

AN ACT TO PROVIDE FOR THE ASSESSMENT AND COLLECTION OF TAXES
ON PERSONAL PROPERTY.

SECT. 1. Be it enacted, etc., That all taxes on personal property for the year 1911 and every year thereafter may be recovered by the Commonwealth by an action of assumpsit in any Court having jurisdiction, in addition to any other manner provided by law.

SECT. 2. Such actions shall be conducted under the direction of the Auditor General, and for that purpose he may employ one or more counsel at a reasonable compensation to be fixed by him.

SECT. 3. In all cases where no assessment for personal property tax shall have been made against a person or persons, corporation, limited partnership or joint stock association, liable therefor for any year, and in all cases where any false return or returns of such taxes shall have been made by any person or persons, corporation, limited partnership or joint stock association liable therefor, and no revision of such return shall have been made by any officer charged by law with such revision, the Auditor General may at any time within twenty-one years thereafter, make a return or revised and corrected estimated return thereof and proceed to the collection of the taxes as required by law.

NOTE.

This is designed to meet such glaring cases as those of which one came to light in the case of *Schmuck vs. Hartman*, 222 Pa., 190. In that case a taxable for the years from 1876 to 1884 made no return of personal property for taxation and from 1885 to 1907 returned amounts increasing from \$4080 to \$6000. At his death, by reason of the information disclosed by the inventory of his estate, the County Commissioners assessed taxes against him upon money at interest on mortgage in the State of Ohio, increasing from \$30,000 in 1876 to \$727,020 in 1907. The Court held that there was no authority of law to make an assessment for personal property tax in any year except that in which the liability arose, and that as liability to pay taxes does not arise from a contractual obligation there could be no action at law for them unless specially allowed. This reaffirmed the decision in *Williamson's Estate*, 153 Pa., 508, where a taxable made no return and was assessed a tax and penalty upon \$67,500. The inventory of his estate at his death showed \$2,500,000.

Obedying the principle of law that there should be an end to litigation, however, it is provided that where the taxing officers do make a revision of the return—presumably after investigation—the matter shall not be again reopened. The remedy in such cases lies only with the fidelity of the taxing officers.

ESCHEATS.

The report of 1911, under this heading, called attention to the large amount of money and other property which must remain the custody of banks and trust companies, saving institutions and safe deposit companies, which has been unclaimed by the rightful owners owing to death and disappearance, and the lack of knowledge on the part of those settling the estate of the existence of this property. A résumé of existing laws on this subject and an explanation of their inadequacy by reason of the lack of penal provisions will be found in the notes to a proposed new law at page .

Very little money is paid into the State Treasury by savings institutions under this head. In the year 1911, \$1,926.23 were so paid; in the year 1910, \$2,415.85, and in the year 1909, \$1,704.12. This was paid by savings institutions under the Act of April 17, 1872, with regard to unclaimed deposits. There must be very much more than this in these institutions, and in banks generally. There must also be a large amount of securities long unclaimed in safe deposit vaults.

The act has been carefully drawn, and we feel that its provisions will get revenue for the Commonwealth and will also do away with the injustice of having this unclaimed property fall into the ownership of the institutions which have no claim whatever upon them. If provided with proper machinery by means of compulsory reports from the institutions, and an adequate staff of investigators, the Auditor General could, in connection with the general work of the office, do all that is necessary in discovering and recovering these moneys and securities.

The Legislature, by the Act of May 11, 1911, P. L., 281, altered the law of escheats by changing the commission of the escheator from five to fifteen per cent., and reducing the reward of the informant from one-third to one-quarter. The Legislature also, by the same act, made the reward of the

informant payable not merely in cases where a person was shown to have died without kindred, but also to cases where escheat occurred "by reason of any other fact." Prior to this act no reward to an informant was payable unless a specific person was shown to have died intestate, without heirs or known kindred. In the other cases of escheat, as where property was shown by the account of a trustee to be without any known owner for seven years, and particularly in the cases just referred to where property has been overlooked, and it should be paid into the State Treasury, merely by reason of the failure of the true owner to claim it, there was no provision for a reward. The reason for this is the great opportunity for collusion which may lead the officers of institutions to put outsiders in the way of getting information as to property which should escheat, and to divide the reward with them.

Under the law as it now stands—although no absolute proof of specific cases have been brought to the attention of your Committee—the forty per cent. of the sum escheated which goes to the escheator and the informant together, is a great temptation to disclose to the State officials in the way indicated the sums which should be reported by the institution itself in the due course of its annual reports to the Auditor-General, without thought of reward to any one. Your Committee recommends the passage of a more complete and stringent Act, and a draft will be found in this report at page 219.

Section 8 of this Act should prevent the payment of any fee to an informant in these cases. At the same time the general language of the Act of 1911 will be effective to cover such cases of escheat, exclusive of deposits in banks and the like as may not come within the language of the previous escheat acts.

Your Committee also recommends the passage of an act to cover the gap in the law disclosed by the decision in Bousquet's Estate, 206 Pa., 534. In that case an escheat was attempted under the description of property of which

the owner has "been unknown for a period of seven years." The owner had been missing for more than twenty years, and the Court held that he was not unknown, but that it was his whereabouts which were unknown. The proposed act directs an escheat where property remains in the hands of a trustee or other person for more than seven years without a demand being made for the same by the rightful owner. (See page 222.) It saves the rights of the heirs of the late owner by providing that claim might be made at the audit of account of the trustee by the person rightfully entitled. In such case the heirs would claim the property by applying the well-known legal doctrine of the presumption of death of a man who has been absent from his domicile and unheard of for seven years. The existing law also provides amply for reclaiming property which has escheated and has been paid in to the State Treasury, if the true heirs appear and prove their ownership within a limited time.

The Legislature of 1911, in the act previously mentioned (P. L., 281), provided, with a great deal of verbiage, for the escheat of the accretions and profits of trust property as well as the property itself, "which property or estate is or shall be without a lawful owner." The first part of this provision seems unnecessary, as the accretions from profits would follow the ownership of the corpus of the fund. The last part does no harm, though it would be easier of administration if the act provided a definite test by which the lack of a lawful owner might be ascertained. Such a test is contained in the act drafted by your Committee.

AN ACT PROVIDING FOR THE REPORT TO THE AUDITOR GENERAL AND ESCHATE TO THE COMMONWEALTH UNDER CERTAIN CONDITIONS OF DEPOSITS OF MONEY; DEPOSITS OF MONEY, STOCKS, BONDS, NOTES, PAPERS AND OTHER SECURITIES AND ALL OTHER VALUABLES OF THE SAME OR ANY OTHER KIND FOR SAFE KEEPING; AND STOCKS AND DIVIDENDS, AND THE PRINCIPAL AND INTEREST OF BONDS,

NOTES, CERTIFICATES AND OF ALL AND ANY OTHER KINDS OF INDEBTEDNESS OF CORPORATIONS, LIMITED PARTNERSHIPS AND PARTNERSHIP ASSOCIATIONS; AND PROVIDING FOR THE ENFORCEMENT OF THE SAME.

SECT. 1. Be it enacted, etc., That every bank, savings institution, trust company, safe deposit company and every person, firm and corporation receiving deposits of money, shall in the month of January in every year hereafter file with the Auditor General a report under oath of all deposits of money with the interest and profits accrued thereon which have not been increased or diminished or credited with interest in the pass book at the request of the depositor within seven years last preceding such report. Such report shall show the amount of such deposit of money, and the name and address of the depositor.

SECT. 2. Every person, firm and corporation in this Commonwealth receiving deposits of money, stocks, bonds, notes, papers and other securities or other valuables of the same or any other kind for safe keeping, shall in the month of January in every year hereafter file with the Auditor General a report under oath of all such deposits to which access has not been actually had by the owner or owners thereof within seven years last preceding such report. Such report shall give the names and addresses of the depositors, and the nature and amount of the deposit, if known.

SECT. 3. Every corporation, limited partnership and partnership association organized under the laws of this Commonwealth shall, in the month of January in every year hereafter, file with the Auditor General a report, under the oath of one of its executive officers having personal knowledge thereof, of the names and addresses of all stockholders to whom a dividend or dividends shall have been declared and who have not claimed the same for seven years next preceding, together with the amount of such dividend and the kind and number of shares on which the same shall have been declared; and also the names and addresses of all holders of bonds, notes, certificates and of all and any other kinds of indebtedness of said corporations, limited partnerships and partnership associations who shall not have claimed for seven years next preceding the principal or interest due on the same, together with the amount of such interest and of the principal of such bonds, notes, certificates and other kinds of indebtedness. Should the names and addresses of said stockholders, holders of such bonds, notes, certificates and other kinds of indebtedness be unknown to the executive officers of any such corporation, limited partnership or partnership association, a report shall nevertheless be filed as hereinbefore provided setting forth the amount and nature thereof and all other information in the possession of such corporation, limited partnership or partnership association concerning said stocks, bonds, notes, certificates and other kinds of indebtedness.

SECT. 4. Such reports shall be preserved by the Auditor General in his office for public inspection, and he shall keep for public inspection an index of the names of all persons so reported to him, the amount and nature of the property involved, and the person or corporation reporting it.

SECT. 5. When any such deposit of money or unclaimed dividend or interest or principal of any bonds, notes, certificates and all or any other kinds of indebtedness of such corporations, limited partnerships and partnership associations shall have been so reported to the Auditor General for seven successive years, it shall, upon demand by him, be paid to the State Treasurer for the use of the State, together with the interest and profits accrued thereon by the person, firm or corporation making such report; and a report of such payment shall be made to the Auditor General and be entered by him in said index.

SECT. 6. At any time within twenty-one years after such payment of a deposit of money, dividend, or interest or principal of any such bonds, notes, certificates, or other kinds of indebtedness of such corporations, limited partnerships and partnership associations to the State Treasurer, the persons who would have been the lawful owners of such deposit, dividend, or interest or principal of any such bonds, notes, certificates or other kinds of indebtedness, had it not been so paid, or their legal representatives, shall receive the same out of the State Treasury out of moneys otherwise unappropriated, upon the warrant of the Auditor General on the State Treasurer, upon the production to the Auditor General of satisfactory proof of such ownership.

SECT. 7. When any such unclaimed stocks of said corporations, limited partnerships and partnership associations or any such deposit of money, stocks, bonds, notes, papers, other securities or other valuables of the same or any other kind for safe keeping, shall have been so reported to the Auditor General for seven successive years, the Auditor General shall thereupon appoint an escheator to conduct proceedings for the escheat of the same in the manner provided by law.

SECT. 8. No fee shall be paid to any informant for information leading to the escheat of any property which shall have been theretofore reported at any time under this Act.

SECT. 9. The failure to make any report required by this Act shall subject the person, firm, corporation, limited partnership or partnership association so failing to a penalty of fifty dollars a day for each day such failure continues, to be recovered by the Commonwealth. The failure to pay to the State Treasurer any such deposit of money or dividend or interest or principal of any bond, note, certificate, or all or any other kind of indebtedness of such corporation, limited

partnership or partnership association upon demand shall render the person, firm, corporation, limited partnership or partnership association so refusing liable to an action by the Commonwealth to recover such deposit with interest at 12 per centum per annum.

SECT. 10. Nothing in this Act shall be construed to prevent the escheat of property to the Commonwealth in the way otherwise provided by law for lack of next of kin or a known owner.

SECT. 11. All the Acts or parts of Acts inconsistent with the provisions of this Act be, and the same are, hereby repealed.

SECT. 12. The following Acts and parts of Acts be, and the same are, hereby repealed:

Au Act entitled "An Act requiring banks and other corporations to give notice of unclaimed dividends, deposits and balances in certain cases." Approved March 6, 1847. (Pamphlet Laws, 222.)

Section 52 of an Act entitled "An Act regulating banks." Approved April 16, 1850. (Pamphlet Laws, 477.)

Sections 2 and 3 of an Act entitled "An Act relating to unclaimed deposits in savings banks, and transfer of stock." Approved April 17, 1872. (Pamphlet Laws, 62.)

An Act entitled "An Act relating to the return of moneys escheated to the Commonwealth." Approved June 4, 1885. (Pamphlet Laws, 73.)

An Act entitled "An Act to amend the first section of an Act entitled 'An Act relating to the return of moneys escheated to the Commonwealth,' approved the fourth day of June, Anno Domini one thousand eight hundred and eighty-five, extending the same to certain other cases of escheat." Approved June 25, 1895. (Pamphlet Laws, 283.)

NOTE.

Existing laws practically cover only bank deposits. They are as follows:

Act of March 6, 1847 (P. L., 222), applying to banks, savings institutions, loan companies and insurance companies, which declare dividends or profits among the stockholders and requiring publication in the newspapers of dividends unclaimed for three years, and not increased or diminished or receiving interest within three years. The penalty is personal liability by the cashier to the owner, with 12 per cent. interest. Three years after the first publication the dividend shall escheat to the Commonwealth and the owner may claim it at any time thereafter. There is no further penalty for failure to publish and no penalty at all for failure to pay to the Commonwealth.

Act of April 16, 1850 (P. L., 477), requires the cashier of every bank to forward to the Auditor General a list of dividends and deposits unclaimed and not increased or diminished for three years. There is no penalty.

Act of April 17, 1872 (P. L., 62), requires a savings fund, savings institution or savings bank to pay to the State Treasurer deposits not demanded for thirty years, and permits the real owner to recover it from the State Treasury after that time by action in the Courts. There is no penalty for failure to make report, but small sums are paid.

The laws of other States are not very complete on this subject. The primary object seems to be publicity for the benefit of the owner or next of kin. New York, for example, has elaborate provisions for report to the Banking Commissioner and the indexing of reports, as well as for publication. Maine and New Jersey, as well as New York, require newspaper advertising. None of these three provide for escheat to the State. Maine and Massachusetts only escheat deposits remaining unclaimed in the hands of receivers of a bank. Ohio has much the most complete system, providing for annual reports to the Probate Judge, which are recorded for public inspection; and after eight years the deposits are paid to the County Treasurer and may be reclaimed at any time on proof of ownership.

Sufficient publicity will be provided by the public reports in the office of the Auditor General duly indexed, to which all persons settling estates will naturally resort to look for unclaimed deposits. This, and the right to recover with a long period of limitation on the right, abundantly protect the depositors, and the State should have the benefit of money not so claimed.

AN ACT TO AMEND SECTIONS TWO AND THREE OF AN ACT ENTITLED "AN ACT DEFINING AND REGULATING ESCHEATS IN CASES WHERE PROPERTY IS WITHOUT A LAWFUL OWNER, AND PROVIDING FOR MORE CONVENIENT PROCEEDINGS RELATIVE TO THE SAME," APPROVED THE SECOND DAY OF MAY, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-NINE; EXTENDING THE SAME TO OTHER CASES OF ESCHEAT.

SECT. 1. Be it enacted, etc., That the second section of an Act entitled "An Act defining and regulating escheats in cases where property is without a lawful owner, and providing for more convenient proceedings relative to the same," approved the second day of May, one thousand eight hundred and eighty-nine, which reads as follows:

"Whosoever any money, estate or effects, shall have been or shall hereafter be paid into or deposited in the custody of any Court of this Commonwealth, or shall be in the custody of any depository, or of any receiver or other officer of said Court and the rightful owner

or owners thereof shall have been or shall be unknown for the space of seven years, the same shall escheat to the Commonwealth, subject to all legal demands on the same," be and the same is hereby amended to read as follows:

Whensoever any money, estate, or effects shall have been or shall hereafter be paid into or deposited in the custody of any Court of this Commonwealth, or shall be in the custody of any depository or of any receiver or other officer of said Court, and the rightful owner or owners thereof shall have been or shall be unknown for the space of seven years, or *shall have made no demand therefor for the space of seven years*, the same shall escheat to the Commonwealth, subject to all legal demands on the same.

SECT. 2. That the third section of the said Act which reads as follows:

"Whensoever any trustee or other person is or shall be seized of any property or estate, real or personal, in a fiduciary capacity, and shall file an account of the same in any Court in this Commonwealth, and whensoever it shall appear that the cestui que trust or beneficial owner of said property or effects, or any part thereof has been unknown for a period of seven years, and still remains unknown, then, and in such case, so much of said property or effects as belonged to said unknown cestui que trust, or beneficial owner, shall escheat to the Commonwealth, subject to all legal demands on the same," be and the same is hereby amended to read as follows:

It shall be the duty of every trustee, guardian, committee, executor, administrator, assignee, or other person acting in a fiduciary capacity, who shall be seized or possessed of any property or estate, real or personal, of which the cestui que trust or beneficial owner shall have been unknown to him for a period of seven years, and still remains unknown, or has made no demand for said property or effects for a period of seven years, to file an account thereof in the proper Court, and so much of said property or effects as belonged to said cestui que trust or beneficial owner, and is not claimed at the audit of said account, shall escheat to the Commonwealth, subject to all legal demands on the same.

(E) RELATION OF STATE TO COUNTIES WITH REGARD TO REVENUE.

In line with the modern tendency (see pages 197, 199), it seems best to your Committee that at least some of the increased revenue needed locally should come from the Commonwealth, either by giving up part of its present revenue or by laying new taxes for that purpose.

This has been the history of the personal property tax in Pennsylvania. At first laid by the Act of March 25, 1831, P. L., 206, then abolished, and revived by the Act of April 29, 1844, P. L., 486, it was entirely a State tax. Continued by various acts, notably the Act of June 7, 1879, P. L., 120, which was a codification of previous laws, the practice grew up of reimbursing the counties for the expense of collection and remitting uncollectable taxes, etc. When the Act of June 1, 1889, P. L., 420 (which, with its amendments, is the present existing authority), was enacted, an allowance of one-third of the tax was made to the counties in commutation of these payments. So attractive was this that the next Legislature, by the Act of June 8, 1891, P. L., 229, increased the amount to three-fourths.

The one-fourth of the personal property tax now retained by the Commonwealth amounted, in 1911, to \$1,186,425.46, and the amounts received by the counties are shown in the table at page 226. This gift could so readily be made under the present system by the mere alteration of a word or two in present legislation that your Committee looks upon it as the proper place to begin, and recommends that it be done. The draft of an act will be found at page 230. In the same way it is elsewhere, in this report, proposed to return the mercantile license and similar taxes to the counties. (See page 155.)

It has been suggested that to return all of this tax to the counties would destroy its character as a State tax, and hence also destroy the power of the State to levy it. Three-fourths is now returned to the counties under the palpable fiction of compensation for collecting it. And half of the tax on premiums of foreign fire insurance companies is paid to municipalities without any such excuse (Act of April 20, 1905, P. L. 229). No question has been raised as to this, and if it is valid for part it should be valid for all. In view of the proposal to raise more local revenue by State taxation, it might be well to furnish an opportunity for a test case in this way before going further. Your Committee believes that the tax would be sustained.

EXEMPTION OF MUNICIPAL AND SCHOOL BONDS.

A part of the State revenue which might be spared, and which it would be sound economically to spare, is the State tax on bonds of municipalities and school districts. This tax is collected like that on corporate loans by the treasurers of counties, cities, boroughs and school districts, (as to the latter of which see Act of May 11, 1911, P. L. 236), and paid to the State. Nominally laid on the bondholder, it is really paid by the county, etc., as pointed out with regard to the personal property tax generally (see page 163).

There is no good reason why one part of the Government should derive any of its revenue by taxing another part, especially when the part so taxed is admittedly in need of all revenue available, and the other has, or can, easily and fairly, obtain all that is necessary. These bonds should be exempt for the same reason that public buildings are exempt, and that it is proposed to exempt bequests to domestic charities (see page 186). Though long a part of our system, it is a proper part to change to provide needed local revenue. Accordingly, the draft of an act is printed in this report at page 230.

The receipts for 1911 from each county for personal property tax and the tax on municipal and county loans are as follows:

Counties.	Tax on personal property.	Three-fourths of personal property tax returned to counties.	Tax on loans (county).	Tax on loans (municipal).
Adams -----	\$10,765 24	\$8,073 93	-----	\$303 70
Allegheny -----	781,354 33	586,015 74	\$14,801 60	57,538 47
Armstrong -----	10,915 25	8,186 43	-----	507 03
Beaver -----	19,728 32	14,796 24	133 00	1,015 79
Bedford -----	9,188 64	6,891 46	202 59	87 21
Berks -----	101,233 28	75,924 96	323 00	690 54
Blair -----	20,716 62	15,537 46	1,570 73	2,683 33
Bradford -----	17,612 32	13,209 24	-----	283 25
Bucks -----	48,054 14	36,040 61	-----	529 78
Butler -----	28,260 04	21,195 03	844 18	826 94
Cambria -----	21,722 86	16,292 14	-----	1,252 42
Cameron -----	1,693 49	1,269 89	106 40	25 08
Carbon -----	14,420 40	10,815 30	144 64	664 80
Centre -----	13,224 46	9,918 34	380 00	556 32
Chester -----	68,076 72	51,057 54	-----	2,460 02
Clarion -----	10,072 59	7,554 44	252 32	224 20
Clearfield -----	13,150 22	9,562 66	230 28	636 42
Clinton -----	5,427 82	4,070 86	392 35	1,067 41
Columbia -----	8,086 54	6,064 90	296 40	578 54
Crawford -----	21,289 71	15,967 28	-----	1,019 29
Cumberland -----	20,598 63	15,448 97	-----	887 02
Dauphin -----	37,605 90	28,204 40	2,139 00	6,222 38
Delaware -----	67,311 90	50,483 93	601 67	5,804 20
Elk -----	2,549 56	1,905 42	-----	546 69
Erie -----	40,034 93	30,026 20	-----	1,326 57
Fayette -----	33,891 05	25,418 29	173 50	1,062 40
Forest -----	1,333 10	999 89	-----	30 64
Franklin -----	23,621 35	17,716 01	-----	338 01
Fulton -----	1,232 79	924 59	8 63	-----
Greene -----	19,404 28	14,553 21	-----	326 42

The receipts for 1911 from each county—Continued.

Counties.	Tax on personal property.	Three-fourths of personal property tax returned to counties.	Tax on loans (county).	Tax on loans (municipal).
Huntingdon -----	\$7,506 08	\$5,629 56	\$339 48	\$147 08
Indiana -----	13,749 73	10,512 29	771 97	497 90
Jefferson -----	12,113 32	9,084 99	-----	603 79
Juniata -----	3,507 32	2,630 49	204 63	3 49
Lackawanna -----	54,713 94	41,035 45	2,696 20	2,477 75
Lancaster -----	116,192 09	87,144 07	1,827 93	4,367 69
Lawrence -----	21,924 98	16,443 73	-----	533 96
Lebanon -----	26,076 02	19,557 01	211 09	1,015 34
Lehigh -----	71,973 70	53,980 27	1,175 72	3,012 97
Luzerne -----	86,706 32	65,029 74	8,802 23	2,499 77
Lycoming -----	26,263 91	19,697 93	1,285 99	1,868 02
McKean -----	17,084 72	12,813 54	-----	35 53
Mercer -----	16,430 42	12,322 81	969 60	1,284 85
Mifflin -----	4,849 36	3,637 02	214 70	450 55
Monroe -----	8,650 21	6,487 65	102 62	252 70
Montgomery -----	180,421 14	135,315 85	2,396 70	3,384 30
Montour -----	2,427 03	1,820 27	15 20	493 24
Northampton -----	60,462 00	45,346 50	1,148 00	4,238 33
Northumberland -----	20,391 04	15,293 28	1,997 31	2,236 30
Perry -----	2,751 88	2,063 91	588 56	114 38
Philadelphia -----	2,181,681 75	1,636,261 31	235,599 84	-----
Pike -----	1,436 83	1,077 62	-----	-----
Potter -----	5,787 93	4,340 95	197 28	53 96
Schuylkill -----	32,995 51	24,746 63	804 46	2,605 77
Snyder -----	3,517 70	2,638 27	22 80	5 42
Somerset -----	20,986 40	15,739 80	870 40	286 22
Sullivan -----	1,419 50	1,064 62	228 03	9 61
Susquehanna -----	9,922 42	7,441 81	-----	31 54
Tioga -----	14,622 32	10,966 74	-----	184 27
Union -----	5,565 88	4,024 41	202 61	153 45
Venango -----	25,056 62	18,792 46	-----	1,351 80
Warren -----	12,730 30	9,547 72	-----	453 04

The receipts for 1911 from each county—Continued.

Counties.	Tax on personal property.	Three-fourths of personal property tax returned to counties.	Tax on loans (county).	Tax on loans (municipal).
Washington	\$70,527 36	\$52,895 52	\$3,041 46	\$2,367 88
Wayne	4,717 78	3,538 33	101 27	54 25
Westmoreland	51,391 83	38,543 87	5,383 69	2,121 48
Wyoming	4,183 63	3,137 72	165 30	29 26
York	72,594 16	54,445 62	2,691 23	1,934 59
Total.....	\$4,745,700 58	\$3,559,275 12	\$296,676 59	\$130,655 35

It is proposed by the Mayor of Philadelphia that the personal property tax—three-fourths of which is now returned to the county, and which is assessed and collected by local officials acting nominally only as State agents—should be made in theory, as it is in fact, a county tax. The purpose is to increase the assessed value of property taxable for local purposes and so increase the borrowing capacity. This seems plausible until we realize that it is of no avail to increase the assessed value of property by a fiction, unless we also increase the rate of taxation to provide for interest and sinking fund. Either this tax or the real estate taxes would have to be increased. And putting the assessment and rate of tax in the hands of the localities would result in the worst forms of tax dodging. Philadelphians now live in Montgomery and adjoining counties in great numbers who are leniently treated as to personal property taxes by the assessors there. If each county had it in its power to exempt its residents, there would be competition for wealthy men and fictitious residences in much greater numbers than now, when the exemption is tacit only and not authorized by law.

Another request from local officials is that a part of the gross receipts tax on public service corporations be returned to the cities and counties to compensate for the exemption of their real estate. The inequality of local taxation on these companies will be, in large part, corrected by the Act elsewhere proposed, (page 209), with regard to corporate loan tax. In the absence of figures showing what part of the value of the whole railroad, for example, belongs to each county, it would not be possible to make any fair division on this basis. Such figures could not be obtained without a physical valuation which would involve the State in an extravagant expense wholly disproportionate to the benefit attained, and ineffective to secure reliable results. The relations of Pennsylvania to the corporations as respects taxation can be otherwise, and at much less cost to both, adjusted satisfactorily to both parties.

AN ACT TO REPEAL SECTION 42 OF AN ACT ENTITLED "AN ACT TO REDUCE THE STATE DEBT AND TO INCORPORATE THE PENNSYLVANIA CANAL AND RAILROAD COMPANY," APPROVED APRIL 29, 1844 (P. L., 501), AND THE FOURTH SECTION OF AN ACT ENTITLED "AN ACT IMPOSING ADDITIONAL TAXES FOR STATE PURPOSES, AND TO ABOLISH THE REVENUE BOARD," APPROVED APRIL 30, 1864 (P. L., 218), AND AN ACT ENTITLED "AN ACT AMENDING SECTION 4 OF AN ACT ENTITLED 'AN ACT IMPOSING ADDITIONAL TAXES FOR STATE PURPOSES, AND TO ABOLISH THE REVENUE BOARD,' APPROVED THE 30TH DAY OF APRIL, A. D. 1864, BY REQUIRING THE TREASURER OF EACH SCHOOL DISTRICT AND CHIEF OFFICER OF EACH INCORPORATED DISTRICT TO MAKE REPORT UNDER OATH TO THE AUDITOR GENERAL OF THE AMOUNT OF SCRIP, BONDS OR CERTIFICATES OF INDEBTEDNESS OUTSTANDING IN THEIR RESPECTIVE DISTRICTS," APPROVED MAY 11, 1911 (P. L., 236); AND EXEMPTING FROM TAXATION THE SCRIP, BONDS AND CERTIFICATES OF INDEBTEDNESS OF COUNTIES, CITIES, INCORPORATED DISTRICTS, SCHOOL DISTRICTS, BOROUGHs, AND OTHER MUNICIPAL CORPORATIONS.

SECT. 1. Be it enacted, etc., That Section 42 of an Act entitled "An Act to reduce the State debt, and to incorporate the Pennsylvania Canal and Railroad Company," approved April 29, 1844, and Section 4 of an Act entitled "An Act imposing additional taxes for State purposes, and to abolish the Revenue Board," approved April 30, 1864, and an Act entitled "An Act amending Section 4 of an Act entitled 'An Act imposing additional taxes for State purposes, and to abolish the Revenue Board,' approved the 30th day of April, A. D. 1864, by requiring the Treasurer of each school district and chief officer of each incorporated district to make report under oath to the Auditor General of the amount of scrip, bonds or certificates of indebtedness outstanding in their respective districts," approved May 11, 1911, be and the same are hereby repealed.

SECT. 2. The scrip, bonds and certificates of indebtedness issued by counties, cities, incorporated districts, school districts, boroughs, and other municipal corporations, are hereby declared to be a separate class of property for purposes of taxation, and are hereby exempted from all taxes now laid upon them by law.

AN ACT TO FURTHER AMEND SECTION 16 OF AN ACT ENTITLED "A FURTHER SUPPLEMENT TO AN ACT ENTITLED 'AN ACT TO PROVIDE REVENUE BY TAXATION,' APPROVED THE SEVENTH DAY OF JUNE, ANNO DOMINI ONE THOUSAND EIGHT HUNDRED AND SEVENTY-NINE," APPROVED THE FIRST DAY OF JUNE, 1889.

SECT. 1. Be it enacted, etc., That Section 16 of an Act entitled "A further supplement to an Act entitled 'An Act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine," approved the first day of June, 1889, which, as heretofore amended, reads as follows:

"SECT. 16. That for the year one thousand eight hundred and ninety-two, and annually thereafter, three-fourths of the net amount of tax based on the return of property subject to taxation for State purposes, required to be made to and accepted by the State Board of Revenue Commissioners annually by county commissioners and the board of revision of taxes in cities co-extensive with counties, that is collected and paid into the State Treasury by a county or city co-extensive with a county, shall be returned by the State Treasurer to such county or city co-extensive with a county, for its own use in payment of the expenses incurred by it in the assessment and collection of said tax: *Provided*, That in consideration of the return to counties and cities co-extensive with counties of the tax as aforesaid, no claim shall be made upon or allowed by the Commonwealth for abatements, tax collectors' commissions, extraordinary expenses, uncollectible taxes or for keeping a record of judgments and mortgages," be and the same is hereby amended so as to read as follows:

SECT. 16. That for the year one thousand nine hundred and thirteen, and annually thereafter, *the whole* of the net amount of tax based on the return of property subject to taxation for State purposes, required to be made to and accepted by the State Board of Revenue Commissioners annually, by County Commissioners and the Board of Revision of Taxes in cities co-extensive with counties, that is collected and paid into the State Treasury by a county or city co-extensive with a county, shall be returned by the State Treasurer to such county or city co-extensive with a county, for its own use: *Provided*, That *no claim shall be made upon or allowed by the Commonwealth for abatements, commissions, expenses, uncollectible taxes, or for keeping a record of judgments and mortgages, or for any deduction or expenses of any kind whatsoever.*

TAX ON ANTHRACITE COAL.

Upon the occasion of your Committee's visit to the anthracite coal regions, many requests came to it, as upon the previous similar occasion, for change in the method of taxing anthracite coal lands, and for the laying of a tax upon the coal itself as it comes out of the ground. The present method of taxing coal lands is to assess them like other real estate at a valuation which is arrived at as closely as may be, but is often the subject of long litigation. A fair valuation for the surface rights in land is easy to arrive at, and to equalize among the taxpayers. But coal under the surface must be assessed "sight unseen." Both in cases where the coal is owned separately from the surface, which often happens, and where it must be valued together with the surface, the absence of accurate knowledge, especially in virgin tracts, makes any decision a mere choice between guesses. The value of the coal, of course, depends not merely on quality and the amount of bone and slate in addition to coal, but upon the thickness of the vein, accessibility, the existence of "faults" and other like conditions. The nature of the litigation may be found in such a case as that of the Lehigh and Wilkes Barre Coal Company's assessment, 225 Pa. 272, where the Court condemned as improper the method of valuing of coal by the "foot acre" method, whereby all coal was valued according to a unit one foot thick and an acre in area without regard to special conditions in each case.

It was also said that anthracite coal should bear a somewhat greater burden than other real estate. The industry is more hazardous than any other, more hazardous even than the mining of bituminous coal. In 1910 there were in Pennsylvania 618 fatal and 3,526 non-fatal accidents in the production of 70,236,350 tons of anthracite coal, to 531 fatal and 3,005 non-fatal accidents in the production of 118,313,525 tons of bituminous coal. In

1911 there were 550 fatal and 4,114 non-fatal accidents in the production of 75,416,691 tons of anthracite coal, and 501 fatal and 3,703 non-fatal accidents in the production of 146,407,356 tons of bituminous coal. The yearly average in the anthracite mines up to 1907 shows deaths of 573, leaving 322 widows and 770 orphans, and for the bituminous mines, 475, leaving 252 widows and 546 orphans. To care for the persons affected by these accidents, institutions have been specially located in the anthracite regions.

The anthracite coal is fast going. The year 1907, owing to special conditions, was the year of maximum production, and, while the pace thus set has been nearly maintained since that time, it will probably never be exceeded and must soon decrease. The re-working of the old culm banks and the dredging of the coal from the bed of the Susquehanna River is an indication of the state of economy to which we have arrived. The following table indicates what is being done:

Statistics of anthracite production, 1906-1910.

Year.	Quantity (long tons).	Value.	Average price per ton.	Average number of men em- ployed.	Average number of days worked.
1906.....	63,645,010	\$131,917,694	\$2 07	162,355	195
1907.....	76,432,421	163,584,056	2 14	167,234	220
1908.....	74,347,102	158,178,849	2 13	174,174	200
1909.....	72,384,249	149,181,587	2 06	{ a171,195 b166,801 }	205
1910.....	75,433,246	160,275,302	2 12	169,497	229

a State mining department figures.

b U. S. census figures.

It is urged that before the coal is exhausted it should be made to yield a revenue both to the Commonwealth and to the localities, which would leave behind a monument to the industry in the form of improved public facilities of every kind—parks, schools and the like, which

it will be more difficult, if at all possible, to establish when the revenue from coal is not available. The whole Commonwealth should partake of the benefit by expending some of the revenue upon the State roads. Both Commonwealth and localities should receive revenue from the coal to meet the cost of the care of the injured and dependent.

It is estimated that eighty per cent. of this anthracite coal is sold to consumers outside of Pennsylvania.

We assume that a small tax, ($2\frac{1}{2}$ per cent. ad valorem, or about five cents per ton), would not be added to the cost to the consumer in Pennsylvania even if so added to those outside. Such a distinction to our own people would not be an unjust discrimination against those of other States, as it is generally conceded by those who know that in all industrial activities those nearest to the natural resources should be so favored, and such a distinction to the users here, that is, a preference in cost of such a natural resource, would be an inducement to the location of manufacturers in this Commonwealth.

Michigan had a similar tax for several years upon her mineral products, and discontinued it probably for the reason that they became competitive, such as oil, gas, etc., here. Minnesota levied such a tax until declared in violation of her constitution requiring all property to be taxed at the same rate. Michigan taxed coal one-half cent a ton, iron ore, one cent a ton, and copper, of which she had a monopoly, seventy-five cents a ton.

As long as the autonomy of States exists in this country, "self preservation" will be to each of them, as it is to individuals, "a primary law of nature," and it behooves us, especially in this extravagant age, to "stop, look and listen," before we attempt to ignore warnings which should be heeded by all who would have our Commonwealth not only maintain her present high position, but keep pace in the onward march of Nations and States. To do this we should make the most of our

resources, and those, (such as anthracite coal), which are hastening to an end, should be carefully husbanded. A proper economic solution of our anthracite condition would be to capitalize the taxes, so that when the coal is exhausted there would exist a fund, the income of which would be available for future needs. But such a plan would increase present taxes to such an extent in the anthracite counties as to be beyond hope of present approval.

Your Committee has endeavored to devise a system by which the Commonwealth would lay and collect a tax on anthracite coal when prepared for market, the tax to be assessed at the beginning of a year for coal prepared for market the year preceding, a proper proportion thereof, say, one-half, to be returned to the localities whence the coal had been taken. This system would provide that for the purposes of all local taxation the coal underlying any lands should not be considered in arriving at the value of the land, but would not affect the local systems of county, city, borough and township taxes, in which the land would be valued with reference only to surface uses.

As part of this contemplated plan, coal produced with the washery and dredge from the river would be included with the other anthracite coal for tax.

The sum returned by the Commonwealth to each county was to be apportioned between the county government and the several city, borough and township governments, in the proportion that each part bore to the whole in population. Thus, on the basis of the production of 1910 of 75,433,246 tons, valued at \$160,275,302, a tax of five per cent. ad valorem would yield \$8,013,765.10, and one-half thereof, or \$4,006,882.55, would be divided among the counties approximately as follows:

Counties.	Tons.	Returned to Counties.
Carbon -----	2,802,855	\$149,590 28
Columbia -----	845,348	42,740 08
Dauphin -----	791,243	42,740 08
Lackawanna -----	19,566,365	1,041,789 47
Luzerne -----	28,547,803	1,522,615 37
Northumberland -----	5,713,269	304,523 07
Schuylkill -----	15,944,174	819,459 10
Sullivan -----	564,962	26,712 55
Susquehanna -----	565,394	26,712 55
River dredges -----	91,833	-----
Total-----	75,433,246	\$4,006,882 55

Assuming that the payments to the several counties would equal, as a whole, the loss of local taxes on the underlying coal, a present insurmountable difficulty is met in the inability to equitably distribute these sums among the several local governments in each county, for several reasons.

For instance, in many collieries the coal prepared for market is drawn from the workings in more than one township, or from land partly in a township and partly in a borough, and the coal mined from the different localities is frequently passed through the breaker and intermingled, which would make it very difficult, if not impossible, to justly apportion the "prepared" coal.

Again, as the State tax, under the plan here discussed, would exempt coal land, (except for surface uses), from local tax for schools and roads, which are now thereby supported, it is most important that any new system should not do harm to these two most important of the local activities.

Take, for instance, West Mahanoy Township in Schuylkill County. In this township the City of Philadelphia, trustee, (Girard Estate), is assessed on the seated list

with coal land valued at \$843,892, and at the rate of twenty-five mills, (the highest allowed by law), this property would yield for school purposes \$21,097.30, and, at ten mills, \$8,438.92, for road purposes. The same land, under the plan here discussed, with the value of coal locally exempted, would be worth, (for surface uses), not more than five dollars an acre, and the 1,672 acres would be assessed at \$8,360. This would yield a maximum school tax, at twenty-five mills, of \$209, and a road tax, at ten mills, of \$83.60. But it might be argued that in this township, in 1911, 1,447,363 tons were prepared for market, (though a considerable portion of coal came from outside), and at a value of three dollars per ton, (this is fifty cents per ton above present mine prices), and at the rate of five per cent. per ton, would have yielded a tax of \$217,104. Of this amount, one-half, or \$108,552, would have been returned to the County of Schuylkill for distribution, as above suggested, and the share of West Mahanoy Township would have been sufficient to equal its loss because of the land tax limitation to surface uses only. But the fact is, that the county's population is, say, 207,894, and the township's, 5,230. The latter's share would have been but \$2,730.80, which, with the \$292.60, the local tax of the land surface, would total \$3,023.40, as against \$29,537.22, now available under the present system.

The exclusion of coal land not being mined from such a system would, to a certain extent, lessen this discrepancy of revenue, but to just what extent your Committee has not definite knowledge. Such exclusion would probably develop Constitutional objection because of the discrimination between coal land being mined and that not so operated.

A better basis of apportionment than population has not been suggested.

Another objection to the adoption of the system under discussion is that the localities would not receive their

share of the tax until, at the earliest, the year following the preparation for market, and if there were appeals from the valuations of the State officers, longer delay would occur.

The localities now receive the taxes during the year and at the times needed, and a delay of months would be ruinous.

By the "School Code" in second, third and fourth class townships, the fiscal year begins the first Monday of July, and the assessments are made in April and May and the schools open September 1st. Taxes are laid accordingly and are sure. Whereas under a State tax and local exemption system school officials would be involved in doubt as to amounts, and when they would receive them, until months after they were actually needed.

Under all these circumstances your Committee does not deem it wise to attempt to supplant the present system of taxation in these anthracite counties, but for the reasons given in the Report of 1911 and herein, recommends that a tax of two and one-half per centum of the value of all anthracite coal, when prepared for market, be laid, and that one-half thereof be returned by the Commonwealth to the several counties in which it is so prepared. This money so returned should be used for permanent improvements, parks, roads, etc., as hereinbefore mentioned. A draft of an Act imposing the tax is herewith submitted at page 239.

We might add that, although objection is made to the present local systems, or lack of system, of anthracite coal land valuations, no substitute has been submitted to your Committee, and repeated requests to those interested have resulted in little less than confusion of ideas thereabout. A satisfactory scheme for State taxation and local exemption of coal land that would do justice to the Commonwealth and its subdivisions from which the coal comes, should be possible, but it can be accomplished only by the co-operation of all interested therein, and

your Committee hopes that earnest effort will be made to that end.

As pointed out in the previous report of your Committee, the like suggestions made with regard to bituminous coal are not so easily complied with. We have a monopoly of anthracite coal, and it must be taken from us by those who consume it. Bituminous coal is produced in many other States, and a tax upon it would not be passed on to the consumer. The price would be regulated still by competition with other States where no such tax is laid, and it would be, in effect, merely an increase of the tax on land.

A conference between these States would be beneficial to all concerned, and your Committee repeats its recommendation of 1911, that an invitation be extended to them to meet delegates appointed by the Governor of Pennsylvania to discuss the subject, the expenses of the delegates to be provided for in the general appropriation bill. As above mentioned, the Legislature adopted a joint resolution to that end, (June 19, 1911, P. L. 1044), and your Committee urges the Governor to comply therewith. Until some concerted action is had between the States producing bituminous coal, oil and gas, and especially between those adjoining the Commonwealth, we do not think it wise to lay a special tax upon any of these products.

AN ACT LAYING A STATE TAX ON ANTHRACITE COAL AND PROVIDING
FOR THE COLLECTION OF THE SAME.

SECT. 1. Be it enacted, etc., That hereafter every ton of anthracite coal of the weight of two thousand two hundred and forty pounds avoirdupois prepared for market in this Commonwealth shall be subject to a State tax of two and one-half per centum of the value thereof when prepared for market, to be settled and collected as provided by law for other State taxes.

SECT. 2. Every operator of an anthracite coal mine or mines in this Commonwealth shall report to the Auditor-General in the month of January in each year hereafter the number of such

tons of anthracite coal mined by such operator within the calendar year then next preceding, and the value thereof at the mouth of the mine. Such report shall be in writing under the oath of the operator if an individual, or of one of them if more than one individual, or of a principal executive officer if a corporation, limited partnership or joint stock association.

SECT. 3. If any such operator shall fail to furnish such report within the time required, it shall be the duty of the accounting officers of the Commonwealth to add 10 per centum to the tax for each and every year for which such report was not so furnished, which percentage shall be settled and collected with the said tax in the usual manner of settling accounts and collecting such taxes; and if any individual operator or the officers of an operator being a corporation, limited partnership, or joint stock association, or any of them, shall intentionally fail to make such report, he or they shall be deemed guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of five hundred dollars and undergo an imprisonment not exceeding one year, or both or either, at the discretion of the Court.

SECT. 4. If the Auditor-General or State Treasurer is not satisfied with the report so made, they are hereby authorized and empowered to make an estimate of the number of tons mined by the operator and to settle an account on the basis of such estimate for the taxes, penalties and interest due the Commonwealth thereon, with the right to the operator dissatisfied with any settlement so made to appeal therefrom in the manner provided by law; and if no such report is made the Auditor-General and State Treasurer shall make an estimate and settle an account as aforesaid, from which settlement there shall be a right of appeal in the manner provided by law.

SECT. 5. Each county shall receive from the State Treasurer for its own use one-half of the amount of the said tax collected from operators in said county.

NOTE.

The classification of anthracite coal as distinguished from bituminous coal has been sanctioned by long existing legislation with reference to the different modes of inspection of bituminous and anthracite mines and the classification sustained in the case of *Durkin vs. Kingston Coal Co.*, 171 Pa. 193.

By an Act of 1864, P. L. 218, a tonnage tax of 2 cents was put on the products of mines. This was amended by an Act of the same year, P. L. 988, continued by an Act of 1868, P. L. 108, and

finally abolished by an Act of 1874, P. L. 68. The later Act substituted a tax on the number of tons of coal mined or purchased by companies engaged in the mining or purchasing and selling of coal at the rate of 3 cents per ton. This was sustained as a tax on franchises or privileges of the company and the classification of these companies separately for purposes of taxation was approved in the case of *Kittanning Coal Company vs. Commonwealth*, 79 Pa. 103.

By the Act of 1879, P. L. 112, the tax was abolished as of July 1, 1881. It was held unconstitutional by the Supreme Court of the United States as to interstate tonnage by the case of *Philadelphia & Reading R. R. Co. vs. Penna.*, 15 Wall. 232.

The method of report and settlement of the tax is based on the method with regard to capital stock tax of corporations.

INCOME TAX AMENDMENT TO U. S. CONSTITUTION.

Your Committee, in its last report, recommended that the proposed Federal Income Tax Amendment be not approved by this Commonwealth. This recommendation was followed. Your Committee is still of opinion that this change in the relation between the States and the Federal Government is unwise, and that it would be unwise for Pennsylvania to lend her approval to it, because, as one of the wealthy States, she would bear far more than her proper share of the burden. There are forty-eight States, and the approval of thirty-six is therefore required. Thirty-three have ratified the amendment, and so notified the Secretary of State, to wit: Alabama, Arkansas, Arizona, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Washington and Wisconsin. Louisiana has ratified the plan, but has not yet sent in the official notice. Connecticut, New Hampshire, Rhode Island and Utah have acted adversely. Delaware, Florida, Massachusetts, New Jersey, New Mexico, Pennsylvania, Vermont, Virginia, West Virginia and Wyoming have not acted at all. Notwithstanding the fact that only two States more are needed, and the certainty that they will

be found among the ten just named, makes it idle for Pennsylvania to say "Aye" or "No" to the proposition, and though such States as Illinois, New York and Ohio, which share with Pennsylvania and Massachusetts the great bulk of the wealth of the country, and which will pay the greater part of the tax, have approved it, yet your Committee recommend that the Legislature, as a matter of principle, should refuse to ratify this amendment.

That this Commonwealth should join in authorizing Congress to pass laws taking vast sums of money from our citizens to be expended in other States from which our people can derive no special benefit, and none at all, save so indirectly as to be practically unappreciable, is beyond reason, unless it be a reason that wealthy States should pay for the upbuild of those less fortunate, no matter how remote. If taxes could be limited to the needs of the country's defence, there would be no opposition, but to turn our people over to Congress to impose such taxes, and for such purposes as it may see fit, in this age of general demand for all kinds of expenditures under the guise of "progress," and in the face of the needs of our Commonwealth, herein referred to, is little short of reckless and foolish. There is an abundance of subjects from which all necessary Federal revenues can be had, without the encroachment upon those which properly belong to the States.

(Mr. Alter does not concur in this recommendation.)

STATE CENSUS.

A census by the State, especially in departments relating to taxation, would be of substantial benefit. Your Committee has been hampered at every turn by the lack of proper statistics with regard to both subjects, taxed and not taxed. It is difficult without such figures to give to the subject that close consideration and treatment which is so necessary to the doing of exact justice to all classes of our people.

We should have full knowledge of all subjects upon which a tax could be properly levied, so that the burden can be fairly and equally distributed.

Massachusetts takes a census every tenth year, midway between those taken by the United States. The machinery of her census bureau is made use of by the United States, and the compensation paid for it defrays a large part of the cost. If we had such a permanent bureau its work, even in years when a census was not being taken by the Federal Government, would be valuable to all the State Departments, and your Committee strongly recommend it.

PRINTING OF TESTIMONY TAKEN BEFORE COMMITTEE.

By reason of the insufficiency of the appropriation at the disposal of your Committee, they were unable to have printed the testimony taken before them. This was done last year. As many of the suggestions adopted by your Committee were given in the course of this testimony, and as the members of the Legislature will desire to have in full the suggestions and arguments of the advocates of those measures, we deem it desirable that this testimony shall be printed for the use of the members of the Legislature. The cost will amount to about one thousand dollars, and we recommend that an appropriation be made for that purpose as soon as possible.

A tabulation of the figures in this report will show that an increased State expenditure is recommended, which will probably exceed the revenue to be provided by new taxes which are recommended, unless the radical change in the method of taxing corporate loans is made and the new tax comes up to expectations. Your Committee feels, however, that these needs can certainly be met if the adoption of improved methods of collec-

tion accompanies the imposition of a few new taxes. The revenue of the State is increasing each year from the present taxes. As better enforcement of the law produces greater equality it will also produce greater revenue. Indeed, the proposed new method of taxing corporate loans is but a more efficient method of collection and not a new tax, and the discussion of it has naturally come under that head in this report.

Automobile license fees should take care of the highway construction and improvement, or at least of the interest and sinking fund on bonds. The limited increase now recommended, in view of the refusal of the last Legislature to impose larger fees, will hardly achieve this. But the tax on anthracite coal will also yield considerable revenue, which should be applied to permanent State and local works, either roads or institutions, so that when it decreases and is finally exhausted, as it must some day be, the loss of it as revenue and maintenance may not be felt.

It is so much the earnest hope of your Committee that this State will soon be in a position to lay the most modern and equitable form of tax in all directions, to wit, the graded or progressive tax, that they have foreborne, as this report will show, to recommend changes in many directions where changes would otherwise be advisable, until the time when this method will be available. Those readers who have come this far will recall that in discussing the taxation of moneys at interest in banks, and merchants and manufacturing companies, as well as in the great field of inheritance tax, this principle has seemed necessary to be applied to reach a just result. The direct inheritance tax alone would go a long way toward providing all the additional revenue necessary for all schools and highways and all the institutions recommended from all sides, and the imposition of it would never be harmfully felt by the citizens. However, it could be graded and reasonable exemption allowed in

those estates where there are widows and children and other dependents upon the inheritance for their support.

The whole of the reform to be made can be summed up in the thought of greater equality of the burden of our present taxes, to be accomplished by a centralization of the authority to assess and collect them and the power to grade them according to the ability to pay.

Your Committee recommends that a Legislative Committee be constituted to continue its investigations upon the subjects heretofore considered, but not concluded, and especially with reference to the preparation of laws based upon the Constitutional amendment providing for graded or progressive taxes, which, it is believed, will be approved by Your Honorable Bodies and ratified by the people, before the meeting of the next General Assembly in 1915, and for the consideration of subjects kindred to those heretofore treated, and the preparation of Acts thereabout.

Respectfully submitted,

JAMES P. McNICHOL,
WILLIAM H. KEYSER,
WILLIAM C. SPROUL,
JAMES F. WOODWARD,
MILTON W. SHREVE,
GEORGE E. ALTER.

APPENDIX

INTRODUCTORY NOTE

The plan adopted in preparing for consideration the revision of the corporation laws has been to place the sections of the proposed Act, together with an explanatory note, on the right-hand side of the page, and on the left-hand side the corresponding Acts or parts of Acts now in force.

Those portions of the proposed Act which appear in brackets indicate a change in or an addition to the present statute law.

Over 11,000 copies of the first draft were published and distributed throughout the State. Public hearings were held by the Committee at Philadelphia, Pittsburgh, Erie and Scranton. A large number of suggestions were received, and as a result a number of changes in substance and form have been made in the present draft. Attention is called to each change in the notes.

AN ACT

To Provide for the Incorporation, Regulation and Dissolution of Certain Business Corporations

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Act of 1874,
April 29, P.
L. 73, Section
1.

Corporations may be formed under the provisions of this Act by the voluntary association of five or more persons for the purpose and in the manner mentioned herein—[here follows a statement that when so formed each corporation shall have certain powers, which are enumerated. In the proposed statute the corporate powers are put in a separate part. See Part III, Sections].

Act of April
23, 1903, P.
L. 272, Sec-
tion 1.

Hereafter corporations for profit * * * may be formed * * * by the voluntary association of three or more persons, and the charter of an intended corporation must be subscribed by two or more persons, one of whom at least must be a citizen of this Commonwealth.
* * *

The Act of 1874, §7, classified the purposes for which corporations could be formed into twenty classes, finally extended to twenty-five classes by Act of June 10, 1893, P. L. 435. Each class is treated in a separate clause. Clause 18, by Act of July 9, 1901, P. L. 624, concludes as follows: “and also including companies for the transaction of any lawful business not otherwise specially provided for by Act of Assembly: Provided, however, That no corporation shall be chartered under this amendment with the authority to transact more than one kind of business, which must be set forth in the charter.”

The businesses otherwise specially provided for are railroading, banking, and insurance. All public service corporations not specially provided for are incorporated under the Act of 1874 and its amendments, though in many cases provisions affecting the formation, organization, and the conduct of particular kinds of public service corporations exist.

PART I.

INCORPORATION.

Section 1. Any three or more natural¹ persons of full Incorporators. age, one of whom shall be a citizen of Pennsylvania,² may form a corporation under the provisions of this Act.

¹A corporation is not such a person as may be an incorporator; see Hall Association of Washington Camp, 26 Pa. C. C. 206 (1901); Central Railroad of N. J. *vs.* P. R. R. Company, 31 N. J. Eq. 475.

²It is suggested that the requirement that one shall be a citizen of the State be omitted. The tendency of State statutes is to do away with requirements in respect to citizenship and residency of incorporators. Thirty-six States and territories have no such requirements.

Section 2. A corporation may be formed for any lawful business purpose [or purposes]³ except that of Purposes for which corporation may be formed.

(a) The rendering or furnishing, or offer to render or furnish, for public use, of the following service or supplies:

1. The transportation or carriage of persons or property, or both, between points within this Commonwealth, by means of or facilitated by, canals, railroads and railways by whatsoever power operated, by cable lines, traction lines, stage lines, express lines, special car lines, baggage lines, freight and through freight lines, forwarding lines, pipe lines, by log booms or dams, incline planes, turnpike roads, plank roads, boulevards, bridges, tunnels, ferries, vessels or steamships, or by any other form of, or facility in connection with any form of, common carriage of persons or property.

³The change is in accordance with the legislation in the majority of the States, the argument in its favor being, that, while it is clear that a public service business should not be combined with a purely private business, no satisfactory reason has been perceived why persons engaged in a purely private business should be obliged to confine themselves to one purpose. For the protection of their creditors each purpose should be clearly set forth, and this is required in Section 3.

II. The operation, management and control of all docks, wharves, piers, quays, dry-docks, lighters, towing vessels, stations, storage warehouses, grain and other elevators, ventilating, refrigerating and heating systems or equipment, the provision of food and drink for passengers, and the feeding and watering and care of live stock, in connection with such transportation between points within this Commonwealth, as well as the operation of all other conveniences, appliances, facilities or equipment utilized in connection with or appertaining to, such transportation or carriage of persons or property, whether the service be common carriage or merely in facilitation of common carriage.

Purposes for which corporation may be formed
(Continued).

III. The transmission of intelligence between points within this Commonwealth, by electricity or by means of telephone lines or telegraph lines, with or without wires, or by any other method or system of communication, including the operation of all conveniences, appliances, instrumentalities, facilities, or equipment utilized in connection therewith or appertaining thereto.

IV. The collection, production, generation, manufacture, storage, utilization, sale and distribution within this Commonwealth, of natural and artificial gas, electricity, water, steam, air, vapor, or energy for light, heat, power, fuel, refrigeration or other use, in any form or by any method whatsoever, and the operation of all conveniences, appliances, facilities or equipment utilized in connection therewith, or appertaining thereto.

V. The collection, diversion, storage, utilization, sale and distribution within this Commonwealth, other than for the purpose of sale in bottles, barrels, vats or similar receptacles, of water for any municipal, domestic, irrigation, reclamation, or manufacturing use, and the operation of all conveniences, appliances, facilities, or equipment utilized in connection therewith or appertaining thereto.

VI. The furnishing within this Commonwealth of sewers or sewage disposal facilities or equipment.

VII. Any other public service business.

Act of 1874, April 29, P. L. 73, Section 3. The charter of the intended corporation * * * shall set forth :

1. The name of the corporation.
2. The purpose for which it is formed.
3. The place or places where its business is to be transacted.
4. The term for which it is to exist.
5. The names and residences of the subscribers, and the number of shares subscribed by each.
6. The number of its directors and the names and residences of those who are chosen directors for the first year.
7. The amount of its capital stock, * * * and the number and par value of the shares into which it is divided.

(b) Insurance.

(c) Building and loan, banking, or any other business intended to derive profit from the loan and use of money.

Purposes for which corporation may be formed (Continued).

(d) Any business which shall need to condemn lands or occupy highways.⁴

"The object of this suggested statute is to provide a complete statute dealing with the formation, organization, and dissolution of business corporations. It is intended to exclude from the operation of the statute all public service corporations or other corporations requiring special regulations. It may well be that many public service corporations could, with advantage, be incorporated under the suggested statute and then be subjected to special additional regulations. This, however, can only be determined by a careful study of the whole problem of public service corporations, their regulation, and the existing provisions of our statutory law. Therefore, at present, the suggested statute merely repeals the Act of 1874 and its amendments, as far as they relate to corporations which can be organized under the provisions of this section. See Repealing Clause, Section 69.

The change in the section as it appeared in the first draft has been to enumerate more specifically the purposes excepted from this Act, particularly with reference to public service. Subsection (a), with the exception of Clause VII, is the same as the definition of "Public Service" in the tentative draft of "A Public Service Commission Law."

In this draft title insurance has been included among the exceptions, as title insurance corporations have the power to receive deposits, i. e., to derive profit from the loan and use of money.

Section 3. (1). The incorporators shall prepare articles of incorporation which shall state: Articles of incorporation

(a). The name of the proposed corporation [with 'corporation,' 'incorporated,' or 'inc.' as the last word].⁵

⁵Kentucky and Virginia have provisions similar to that suggested. Alabama, Colorado, Connecticut, Delaware, Kansas, Maryland, Minnesota, Missouri, Nevada, North Carolina, and Ohio require "corporation," "company," "association," or a similar word to appear in the name; while Massachusetts and Rhode Island require that the name shall be such as to distinguish a corporation from a partnership.

(b). The purpose [or purposes] for which it is to be formed; [if more than one purpose, each to be stated separately].⁶

⁶See Note 3 to Section 2, supra.

Act of 1893,
June 8, P. L.
355, Section
1.

(This Act by implication assumes that the principal office must be within the State. It provides a method for changing the location of such office and concludes: "nothing in this Act, however, shall authorize the location of the principal office * * * outside the limits of this Commonwealth.")

Act of 1874,
supra. Sec-
tion 38,
Clause 7.

(This clause provides that corporations incorporated for the manufacture of iron or steel, or both, or any other metal, or any article of commerce from wood or metal, "may have an office at any place without the State, at which the by-laws of the corporation may authorize the same [at which] meetings of stockholders and directors may be held, and any business of the corporation transacted, but it shall also keep an office within the county in which its principal business in this State is transacted, and an officer of the company there upon whom service of process may be made.")

(c). The location of its principal office, which shall be in this State.⁷

Articles of
incorporation
(Continued).

The clause, it is submitted, represents the practical interpretation of the present law.

Existing statutes appear to confuse two distinct things, the principal office and the place where the business of the corporation is transacted. The words "principal office" properly designate the place where the corporate functions are exercised—where the books of the corporation, especially the stock transfer books, are kept. The principal office is a place where the company can be served with process. The place where the company transacts business, i. e., carries on the buying and selling, the mining or manufacturing, or the other business for which it was incorporated, may also be the principal office, but this is not necessarily so. The distinction between office and place of business is pointed out in *In re Enterprise Mutual Beneficial Association*, 10 Phila. 380 (1875).

The Act of 1874 requires the certificate to state "the place or places where its business is to be transacted." The practical interpretation of the secretary's office makes this provision as if it had required "the place of the principal office." The rules of the office of the secretary, governing applications for letters patent, state that "the designated place of business of the corporation is where the corporate functions are to be exercised, and only one office can be named as such."

The clause as suggested not only carries out the practical interpretation of the secretary's office, but, it is submitted, that inasmuch as it expresses the following principles, its provisions are sound:

1. The location of the principal office should be on a public record for the use and protection of the State, the stockholders and the creditors.

2. A corporation should not be organized under the laws of the State when those who organize it intend regularly to hold directors' and stockholders' meetings and keep all their books beyond the jurisdiction of the State.

3. The place or places where the business, as distinguished from the corporate functions, is carried on, need not be inside the State. There is no reason why a corporation should not carry on business outside the State of its creation, if the State in which it transacts its business concurs.

4. Every change in the place or places where the business is transacted should not require a change in the articles of incorporation, unless the incorporators, in designating the purpose for which the corporation is formed, choose to limit the carrying on of the business to a particular place. Therefore, the incorporators should not be required to state in the articles the place or places where at first they intend to carry on the business, because nothing should be required to be set forth in the articles which there is no reason why the members of the corporation should not be allowed to change without being required to place the change on a public record.

Act of 1874,
supra, Section 4. The charter for incorporations named in this Act may be made perpetual, or may be limited in time by their own provisions. * * *

Act of 1889,
May 9, P. L.
180, Section
1, amending
Act of 1874,
supra, Section
11. * * * The capital stock of every such corporation that has or requires a capital stock shall consist of not more than one million dollars [there is an exception in re certain public service corporations] and shall be divided into shares of not more than one hundred dollars each. * * *

Act of 1874,
supra, Section
39, Clause 1. That every such corporation [corporations incorporated under Clause 18 of Section 2] may have a capital stock not exceeding five million dollars. * * *

Act of 1876,
April 17, P.
L. 30, Section
9. The capital stock of corporations for the purchase and sale of real estate, or for holding, leasing and selling real estate, and for maintaining or erecting and maintaining walls and banks for the protection of low lying lands shall consist in the aggregate at no time of more than six hundred thousand dollars, to be divided into shares of fifty dollars each. * * *

(As far as the above recited Acts limiting the amount of capital apply to increases of capital subsequent to organization, they are repealed by the Act of 1905, Apr 22, P. L. 280, §1. See Note 1 to Section 3 (e) of suggested business corporation Act.)

(d). The period of duration, which may be perpetual. Articles of
incorporation
(Continued).

(e). The amount of its capital stock [which shall not be less than five thousand dollars]⁸ and the number and par value of the shares into which it is to be divided.⁹

⁸Present legislation limits the maximum amount of the original capital stock; but immediately after organization the capital stock may, by amendment, be indefinitely increased. The Act of 1905, April 22, P. L. 280, Section 1, amending the Act of 1901, Feb. 9, P. L. 3, provides: "That the capital stock, or indebtedness, or both, of any corporation created by general or special law may, with the consent of the persons or bodies corporate holding the larger amount in value of stock, be increased to such an amount in the aggregate of each, without regard to the amount of the other, and regardless of any limitation upon the amount of either, prescribed in any general or special law regulating any such corporation, as it shall deem necessary to accomplish and carry on and enlarge the business and purposes of such corporation. Such increase of either may be made at once or from time to time, as the majority in interest of the stockholders shall determine."

It is submitted that the policy expressed in the Acts of 1901 and 1905 is correct, provided the capitalization is bona fide. Large aggregations of capital, at least when they obtain monopoly of an industry, unquestionably need regulation, but it does not follow that therefore they are in themselves an evil to be prohibited.

Under present legislation, as mentioned above, the capital stock may, after organization, be increased indefinitely. The actual issue of the shares constituting the increase may be made from time to time as the directors may think fit, and the bonus is paid upon the amount of the actual issue only.

The provision that no corporation should be incorporated for less than \$5,000 is in accordance with the present practice of the executive department. It is submitted that the practice is sound, and should be incorporated into our statute law.

The following limitations as to the minimum capital stock exist in other States: Alabama (\$2,000), Connecticut (\$2,000), Delaware (\$2,000), Louisiana (\$3,000), Maine (\$1,000), Massachusetts (\$1,000), Michigan (\$1,000), Minnesota (\$10,000, except in case of manufacturing or mechanical companies, for which there does not seem to be any limit), Missouri (\$2,000), Nevada (\$2,000), New Hampshire (\$1,000), New Jersey (\$2,000), New Mexico (\$3,000), Vermont (\$500). Four States besides Pennsylvania limit the maximum capital stock: Michigan (\$25,000,000), Missouri (\$50,000,000), New Hampshire (\$5,000,000), and Vermont (\$1,000,000). Maryland limits the capital stock of mining corporations to \$3,000,000.

⁹Present legislation limits the maximum par value of shares to \$100, but no reason is perceived why this should be retained. It appears to be a matter which may well be left to the discretion of the incorporators. In thirty-six States and territories the par value may be any amount.

Act of 1876,
April 17, P.
L. 30, Section
4, amending
Act of 1874,
supra, Section
17.

* * * Every such corporation may provide for the issue of deferred stock, in payment for such real or personal estate or mineral rights, and if so provided, it shall be expressly stated in the charter filed, or in a certificate to be made and recorded, or in the acceptance of this statute, to be filed by any corporation accepting its provisions, with the amount of such deferred stock, and the consideration of the same, and the terms on which the same shall be issued. * * *

Act of 1901,
April 19, P.
L. 80, Section
1.

That in all corporations heretofore or hereafter incorporated under the laws of this Commonwealth * * * the board of directors may consist of any number of persons not less than three.

Act of 1874,
supra, Section
3.

The certificate for a corporation embraced within the second class, named in the foregoing section, shall set forth all that is hereinbefore required to be set forth * * * [an exception is made in the case of building and loan corporations, which associations are not included within the suggested Act] shall also state that ten per centum of the capital stock thereof has been paid in

(f). [If there are to be two or more classes of shares, the amount and description of each, with a statement of the terms, conditions, and preferences (which shall conform to the provisions of sections 24 and 25)] on which they are to be issued.¹⁰

Articles of
incorporation.
(Continued).

¹⁰Present legislation requires a statement such as that here suggested in case the corporation issues deferred stock, but where the stock of the corporation when organized is divided into common and preferred stock, no such requirement exists. It is submitted that the rule in the case of the deferred stock should also apply to other classes of stock. The statutes of twenty-nine States and territories contain a provision similar to that suggested, and in at least two other States the usual practice, if the capital stock is to be classified, is to provide for a statement of that fact in the articles of incorporation.

(g). The names and addresses of the incorporators and the number of shares subscribed by each.

(h). The number of directors, which shall not be less than three, and the names and post office addresses of those chosen to serve as directors prior to the organization meeting.¹¹

¹¹This clause expresses the present law. Directors need not be stockholders nor incorporators. *Coe vs. Leckrone Coke Co.*, 30 Pa. C. C. 113 (1904); *Corporate Directors*, 7 Pa. C. C. 178 (1890). The case of *Com. vs. Helms*, 8 Pa. C. C. 410 (1890) decided that the Act of 1874 merely required that the first directors be named, but that it was not necessary that they should serve for one year, and that the purpose of the present law was to have definite persons to manage the affairs of the corporation until by-laws could be adopted and the corporation organized. The Court therefore held that at the first annual election as fixed by the by-laws, new directors could be elected, although the original directors had not served for a full year. The term "organization meeting" is explained in Section 8 and note.

(i). The name and address of the treasurer, and a statement that ten percentum of the capital stock has been paid in cash to such treasurer.

(2). The articles of incorporation shall be signed by [each of the incorporators]¹² and acknowledged by at least two before the Recorder of Deeds of the county in which the principal office of the corporation is to be located, or before any notary public or justice of the peace of this Commonwealth, [or before any person of any other State or country before whom a deed may be ac-

cash to the treasurer of the intended corporation, and the name and residence of such treasurer shall be therein given. The same shall be acknowledged by at least three of the subscribers thereto, before the recorder of deeds in the county in which the chief operations are to be carried on, or in which the principal office is situated, and they shall also make and subscribe on oath or affirmation before him, to be endorsed on the said certificate, that the statements therein are true.

Act of 1903,
April 23, P.
L. 272, Sec-
tion 1.

Hereafter, corporations for profit embraced within corporations of the second class defined in Section 2 [Act 1874] * * * may be formed under the provisions of said Act, by the voluntary association of three or more persons, and the charter of an intended corporation must be subscribed by two or more persons, one of whom at least must be a citizen of this Commonwealth.

Act of 1891,
April 15, P.
L. 18, Section
1.

That from and after the passage hereof, certificates of association or articles of incorporation may be acknowledged and sworn to before a notary public of the Commonwealth of Pennsylvania, in the same manner, and with like force and effect, as though acknowledged and sworn to before the recorder of deeds in the proper country.

Act of 1911,
June 1, P. L.
540, Section
1.

That hereafter all certificates of association and articles of incorporation may be acknowledged and sworn to before any justice of the peace of this Commonwealth, in the same manner and with like force and effect as though acknowledged and sworn to before the recorder of deeds of the proper county or a notary public of this Commonwealth.

Act of 1874,
April 29, P.
L. 73, Section
3.

Notice of the intention to apply for any such charter shall be inserted in two newspapers of general circulation, printed in the proper county, for three weeks, setting forth briefly the character and object of the corporation to be formed and the intention to make application therefor.

knowledge for record in Pennsylvania].¹³ The two incorporators acknowledging the articles shall at the same time make and subscribe an oath or affirmation, to be endorsed on said articles, that the statements contained therein are true [and that the payment of the ten percentum of the capital stock has been made in good faith and not by way of loan or upon any promise, understanding, or agreement that the same shall be returned, but that it is the intent of the incorporators that the sum so paid in shall be retained and treated as part of the capital stock of the corporation].¹⁴ The articles shall thereupon be filed in the office of the Secretary of the Commonwealth.¹⁵

Articles of
incorporation
(Continued).

¹³Present legislation requires only two of the incorporators to sign. It is submitted that a person's name should not be used as an incorporator on a public record, unless he signs the articles of incorporation, which is the original from which the record is made. Again, present legislation uses apparently interchangeably the words "incorporators" and "subscribers." The word "subscriber" in this connection is unfortunate, as it might be construed to mean a subscriber to the articles, but not to the capital stock. In this Act, Section 67, dealing with definitions, defines the word "incorporator" as a person who subscribes both to the articles and the capital stock, thus requiring an incorporator to be a subscriber to the capital stock.

¹⁴The addition is made to permit acknowledgment outside of Pennsylvania.

¹⁵These words are used to prevent existing abuses well known to the profession.

¹⁶Present legislation apparently requires the publication of notice of the intention to apply for a charter before the filing of the articles in the office of the Secretary of State, but the present practice of that office is to require the articles to be on file during the period of publication. This practice, it is submitted, represents sound policy, if it is desired to retain the present provision in regard to publication (see Section 4 and note).

Section 4. [Notice of the fact that a certificate of incorporation has been applied for] shall be inserted in at least one newspaper of general circulation, printed in the county in which the principal office of the corporation is to be located, and in the legal journal, if any, designated by rule of court in said county for the publication of legal notices,¹⁶ for three weeks, setting forth the character and object of the corporation to be formed.¹⁷

Notice that a
certificate of
incorporation
has been ap-
plied for.

¹⁷The first draft has been changed so as to require publication in one newspaper of general circulation, and in a legal journal,

Act of 1874,
April 29, P.
L. 73, Section
3.

The said certificate, accompanied with proof of publication of notice as hereinbefore provided, shall then be produced to the governor of this commonwealth, who shall examine the same. If he find it to be in proper form and within the purposes named in the second class specified in the foregoing section, he shall approve thereof and endorse his approval thereon, and direct letters patent to issue in the usual form, incorporating the subscribers and their associates and successors into a body politic and corporate, in deed and in law by the name chosen, and the said certificate shall be recorded in the office of the Secretary of the Commonwealth, in a book to be by him kept for that purpose, and he shall forthwith furnish the Auditor-General with an abstract therefrom showing the name, location, amount of capital stock, and name and address of treasurer of such corporation. The said original certificate, with all of its endorsements, shall then be recorded in the office for the recording of deeds in and for the county where the chief operations are to be carried on, and from thenceforth the subscribers thereto, and their associates and successors, shall be a corporation for the purposes and upon the terms named in the said charter. Certified copies of both the records thereof and of the charters of the incorporations named in the first class specified in the foregoing section, shall be competent evidence for all purposes in the courts of this commonwealth. The Secretary of the Commonwealth shall charge and receive a fee of five dollars on every affidavit relating to a corporation filed or recorded in his office.

if one has been designated by rule of court for publication of legal notices.

¹⁷If this section is to be retained, for reasons stated in note 15 to Section 3 (2), supra, the words in brackets should be included.

Notice that a certificate of incorporation has been applied for (Continued).

It is, however, submitted that there is much to be said in favor of omitting the requirement for publication. The requirement is an inheritance from the time when incorporation was a special act conferring a special privilege. At present, when any three or more citizens of the State have a right to obtain the privilege of conducting their business in corporate form, there would appear to be no special reason for publication of the notice of intention to apply.

Only nine States and territories require such publication, namely: Arizona, Florida, Georgia, Iowa, Minnesota, Mississippi, Nebraska, New Mexico and Wyoming.

Section 5. (1). The Secretary of the Commonwealth shall examine the articles of incorporation, and if he shall find that the provisions of this Act have been complied with, and that the bonus prescribed in Section 7 has been paid, he shall endorse his approval thereon, and the articles, together with proof of publication of the notice as hereinbefore provided, shall be submitted to the Governor, who, if he shall be satisfied that the provisions of this Act have been complied with, shall endorse his approval on the said articles, and direct a certificate of incorporation to be issued.¹⁸ [Provided, however, that no such certificate shall be issued if the name of the proposed corporation is identical with, or so nearly resembles as to be calculated to deceive, that of any other corporation formed under the laws of this Commonwealth or authorized to do business within this Commonwealth.]¹⁹

Certificate of incorporation.

¹⁸The only change from the present law here suggested is the formal requirement that the Secretary, as well as the Governor, must be convinced that the things done by the persons applying for incorporation entitle them under the Act to be incorporated. This change, however, expresses present practice in other States. In fact, only two other States, Florida and Mississippi, require the articles to be submitted to and approved by the Governor.

¹⁹Under present legislation, the corporation is not permitted to change its name to a name conflicting with that of the name of any corporation on the records. In practice, an application for incorporation would be refused if the name conflicted with the name of an existing domestic corporation or foreign corporation authorized to do business in the State. *Altoona Gas Co. vs. Gas Co. of Altoona*, 17 Pa. C. C. 662 (1896);

Act of 1903,
April 22, P.
L. 251, Sec-
tion 1.

(This Act provides a method by which a corporation may change its name. On filing the application for a change of name with the Secretary of the Commonwealth, the Act provides that the Secretary of the Commonwealth shall examine the records in his office, and if he finds that the name desired by said corporation does not conflict with the name of any corporation appearing upon said records, he shall require the said certificate to be recorded, and shall issue to the said corporation a certificate under the hand and seal of his office, granting to said corporation use of the said new corporation title.)

(See the present legislation set forth in connection with Section 5.)

Bradley Fertilizer Co., 19 Pa. C. C. 271 (1897); Bradley Fertilizer Co. of Phila., 6 D. R. 424 (1897); see generally P. & L. Digest of Decisions, Vol. 3, column 4797, et seq.

Certificate
of incorpora-
tion
(Continued).

Thirty States have a provision prohibiting similarity of names, and twelve of these States extend the prohibition to the names of foreign corporations authorized to do business in the State.

(2). The certificate of incorporation together with the articles of incorporation shall be recorded in the office of the Secretary of the Commonwealth in a book to be kept by him for that purpose, and he shall forthwith furnish to the Auditor-General an abstract therefrom showing the name, location of principal office, amount of capital stock, and the name and address of the treasurer of such corporation.

Section 6. (1). [Upon the issuance of the certificate of incorporation the incorporators and their associates and successors shall be a corporation.]²⁰

Time when
incorporation
is completed.

²⁰Under present law, the incorporation is not complete until the certificate and endorsements are recorded with the recorder of deeds of the proper county. This requirement has resulted in litigation upon the validity of acts done after the letters patent have issued, but before they have been recorded. See *Pinkerton vs. Traction Co.*, 193 Pa. 229 (1899); *Guckert vs. Hacke*, 159 Pa. 303 (1893); *Bank vs. Crowell*, 177 Pa. 313 (1896). It has also necessitated the passage from time to time of acts validating, upon proper recording, acts of corporations done after the issuance of letters patent, but before recording. See for example, Act of 1911, March 15, P. L. 17, Section 1. The sub-section suggested removes the cause of the litigation referred to and does away with the necessity of continually passing validating acts. In this Act, recording with the Recorder of Deeds is required, but it is made a condition precedent not to the incorporation, but to the commencement of business, and personal liability is imposed on the directors and officers if they carry on the business before recording. See *infra*, Section 9.

(2). The certificate of incorporation, or a copy thereof, duly certified by the Secretary of the Commonwealth, shall be [conclusive]²¹ evidence of due incorporation.

²¹There are two methods of treating the probative force of certificates of incorporation (letters patent). The certificate may be regarded merely as *prima facie* evidence of incorporation, or it may be regarded as conclusive evidence, in spite of any irregularity in the steps taken to procure the certificate. The inconvenience and injustice resulting from permitting those who have

Act of 1899,
May 3, P. L.
189. All corporations hereafter created under any general or special law of this Commonwealth * * * shall pay to the State Treasurer, for the use of the Commonwealth, a bonus of one-third of one per centum of the amount of capital stock which said company is authorized to have, and a like bonus on any subsequent authorized increase thereof, and a like bonus shall be paid by all such corporations heretofore incorporated upon any increase of their capital stock hereafter authorized. * * *

Act of 1901,
Feb. 9, P. L.
3, Section 3. * * * Upon the actual increase of the capital stock or indebtedness of such corporation, made pursuant thereto, it shall be the duty of the president or treasurer of such corporation, within thirty days thereafter, to make a return to the Secretary of the Commonwealth, under oath, of the amount of increase actually made, and concurrently therewith such corporation shall pay to the State Treasurer, for the use of the Commonwealth, such bonus on the actual increase shown by said return as shall then be prescribed by law. * * *

dealt for and with the corporation to allege that it has not been properly incorporated has led the courts, even where the certificate is only prima facie evidence of incorporation, to assert the doctrine that the validity of the certificate cannot be collaterally attacked. Where this doctrine is carried out to its full effect, it results practically in the State being the only party that can go behind the certificate. In this Act, the Secretary of the Commonwealth is required to satisfy himself in regard to the regularity of the application before presenting it to the Governor. The Governor need not issue the certificate unless he also is satisfied that all the requirements of law have been fulfilled. It is submitted that it simplifies the law to make the certificate conclusive evidence of incorporation. If false statements are made in the articles, the charter is subject to be forfeited. (See Section 60, *infra*.) In suggesting this change in the present law the Act follows the law of Massachusetts and of England.

Time when
incorporation
is completed
(Continued).

Section 7. At the time of filing the articles of incorporation the incorporators shall pay to the State Treasurer, for the use of the Commonwealth, a fee or bonus of one-third of one percentum upon the amount of capital stock specified in the articles of incorporation. In the event of a subsequent increase in the amount of capital stock, a like bonus on such actual increase shall be paid as prescribed in Section 12.²²

²²Many lawyers have suggested that the bonus be decreased in amount, declaring that a large bonus drives prospective incorporators from the State.

See Act of 1874, April 29, P. L. 73, Section 3, as set forth in Section 3, *supra*.

PART II.

ORGANIZATION.

Section 8. (1). [The first or organization meeting of every corporation shall be held in this State. A notice, signed by a majority of the directors, designating the time, place and purpose of the meeting, shall be given at least seven days prior to the time fixed for such meeting; Provided, that if all the stockholders shall, in writing, waive the notice and fix a time and place for the meeting, no notice shall be required.] ^{Organization meeting.}

(2). At such meeting the stockholders shall organize by the adoption of by-laws (unless the power to make by-laws is vested in the board of directors by the articles of incorporation) and by the election of directors, who shall hold office until the annual meeting provided for in the by-laws.]¹

¹The present law has no specific provision concerning the organization meeting. As it is customary and practically necessary to hold such a meeting before the commencement of business, it is submitted that it is better to provide specifically that the meeting shall be held. Twenty-seven States expressly provide for an organization meeting. Of these, five require such organization to take place before incorporation, and five require it before the commencement of business, while the statutes in the other States apparently contemplate the holding of the meeting before the transaction of business.

The second sub-section modifies the present law to some extent by requiring the directors to be elected at the first meeting. Under present law the by-laws fix the time for election of directors, and a majority of the stockholders may insist upon an election on the date appointed, even though the directors named in the articles of incorporation have not served for one year. *Com. vs. Helms*, 8 Pa. P. C. 410 (1890). See note 11, Section 3 (1h).

Section 9. (1). No corporation shall commence business or exercise any borrowing powers until: ^{Restrictions in the commencement of business.}

(a). [The organization meeting, as prescribed in Section 8, shall have been held.]

(b). [Fifty per centum of the amount of capital stock specified in the articles of incorporation shall have been subscribed.]²

Restrictions
in the com-
mencement of
business
(Continued).

²There is no provision in the present law requiring that any definite amount of capital stock shall be subscribed before the corporation begins business, though the requirement that ten per cent. must be paid in prior to incorporation indirectly requires that at least that amount must be subscribed prior to beginning business. It is submitted that the provisions requiring ten per cent. of the capital to be paid in cash before incorporation does not afford sufficient protection to creditors. The clause requiring fifty per cent. to be subscribed before the commencement of business is inserted for consideration. A few lawyers have even suggested that the entire capital should be subscribed before the charter is granted.

The following is a summary of the provisions of those States whose statutes deal with the subject.

Before incorporation:

Alabama—Payment of 25 per cent.

District of Columbia—Subscription of all, payment of 10 per cent.

Illinois—Subscription of all, payment of 50 per cent.

Michigan—Subscription of 50 per cent., payment of 10 per cent.

Missouri—Subscription of all, payment of 50 per cent.

South Carolina—Subscription of 50 per cent., payment of 20 per cent.

Texas—Subscription of all, payment of 50 per cent.

Utah—Payment of 10 per cent.

Before transaction of business:

Connecticut—Payment of \$1,000.

Delaware—Payment of \$1,000.

Florida—Payment of 10 per cent.

Georgia—Payment of 10 per cent.

Kansas—Payment of 20 per cent.

Kentucky—Subscription of 50 per cent.

Nebraska—Subscription of 10 per cent. (manufacturing corporations).

Nevada—Payment of \$1,000.

New Jersey—Payment of \$1,000.

New Mexico—Payment of \$2,000.

New York—Payment of \$500.

Ohio—Subscription of 10 per cent.

Oregon—Subscription of 50 per cent.

Vermont—Payment of 25 per cent.

Washington—Subscription of all.

Wisconsin—Subscription of 50 per cent., payment of 10 per cent.

(c). The certificate of incorporation and the articles of incorporation shall have been recorded in the office of the Recorder of Deeds in and for the county

where the principal office of the corporation is located.³

Restrictions
in the com-
mencement of
business
(Continued).

³A change is made so as to require the original certificate and articles to be recorded, and not a copy thereof.

(d). [A report, signed and sworn to by the majority of the directors, stating that the aforesaid conditions have been complied with shall have been filed in the office of the Secretary of the Commonwealth.]⁴

⁴If the above restrictions on the commencement of business are proper, the Secretary should have some formal record that they have been complied with.

(2). If any corporation shall commence business before such report shall have been filed, the directors, except those dissenting therefrom, who shall have caused their dissent to be entered upon the minutes of the directors at the time, or who, being absent, shall have caused their dissent therefrom to be so entered upon learning of such action, shall be jointly and severally liable for all debts of the corporation incurred or entered into before such report shall be filed.⁵

⁵The method by which a dissenting director can exempt himself from liability is taken from the Act of April 17 (1869), P. L. 71, Section 2. relating to liability of directors of certain corporations who know that the treasurer is mixing the funds of the corporation with his own funds.

Act of 1874,
April 29, P.
L. 73, Section
1.

Corporations may be formed * * * and when so formed, each of them by virtue of its existence as such shall have the following powers unless otherwise especially provided:

First: To have succession by its corporation name for a period limited by its charter, and when no period is limited thereby, or by this Act, perpetually subject to the power of the General Assembly, under the Constitution of this Commonwealth.

Second: To maintain and defend judicial proceedings.

Third: To make and use a common seal and alter the same at pleasure.

Fourth: To hold, purchase and transfer such real and personal property as the purposes of the corporation require, not exceeding the amount limited by its charter or by law.

Fifth: To appoint and remove such subordinate officers and agents as the business of the corporation requires, to allow for a suitable compensation.

Sixth: To make by-laws not inconsistent with law for the management of its property, the regulation of its affairs and the transfer of its stock.

Seventh: To enter into any obligation necessary in the transaction of its ordinary affairs.

Ibid, Section
39, Clause 7.

Such corporation (companies incorporated under the provisions of this Act for the carrying on of any mechanical, mining, quarrying, manufacturing or other business, as provided in Clause 18 of the second class, in Section 2 thereof) may, in its corporate name, take, hold and convey such real and personal estate as is necessary for the purpose of its organization, may carry on its business, or so much thereof as is convenient, beyond the limits of the Commonwealth, and may there hold any real or personal estate necessary for conducting the same.

PART III.

CORPORATE POWERS.

Section 10. Every corporation shall have power :

General
powers.

(a). To have succession by its corporate name for the period limited by its articles of incorporation, and when no period is limited thereby, perpetually, subject to the power of the General Assembly under the Constitution of this State.¹

¹This is the present law, except that the words "or by this Act," after the words "and when no period is limited thereby," are omitted as unnecessary.

(b). To maintain and defend judicial proceedings.

(c). To make and use a common seal and alter the same at pleasure.

(d). To take, hold and convey such real and personal property as the purpose of the corporation requires.²

²An examination of the statutes under the present law shows that all corporations incorporated under clause 18 can hold such real property as the purpose of the corporation requires. Companies for the purchase and sale of real estate are at present limited in respect to the amount of real property which they can hold, as are also corporations included within the provisions of Section 3 of the Act of 1874.

(e). To appoint and remove such subordinate officers and agents as the business of the corporation requires, and to allow them suitable compensation.

(f). To enter into any obligation necessary to the transaction of its ordinary affairs.

(g). To carry on its corporate business, or so much thereof as is convenient, beyond the limits of this State.³

³These are practically all common law powers. The power to make by-laws is omitted from this section, because it is specifically provided for in Section 37. Present legislation expressly grants the right given in clause (g) to clause 18 corporations, but makes no provision in regard to other corporations.

Act of 1887,
May 24, P. L.
188, amend-
ing Act of
1874, April
29, P. L. 73,
Section 38.

Provides that iron or steel companies shall not at any one time have more than 10,000 acres of land in the Commonwealth, including leased land, except companies organized to manufacture iron with charcoal, which said companies may hold timber lands not exceeding the quantity that will be required to furnish wood for charcoal for the purposes of said companies, and said lands may be located in not exceeding four contiguous counties.

Act of 1876,
April 17, P.
L. 30, Section
9.

(This Act limits real estate of corporations for the purchase and sale of real estate, or for holding, leasing and selling real estate, and for maintaining or erecting and maintaining of walls or banks for the protection of low lying lands when the real estate is situated in cities or boroughs to an amount not exceeding 500 acres, and outside of such cities or boroughs to an amount not exceeding 10,000 acres; "but any number of the acres desired may be protected from encroachment by water.")

Act of 1883,
June 13, P.
L. 122.

When any corporation * * * shall desire to improve, amend, or alter the article and conditions of the charter or instrument upon which said corporation is formed and established, it shall and may be lawful for such corporation to apply to the Governor of this Commonwealth for such improvement, amendment or alteration in the manner provided in this Act.

Amendment
of charter.

The corporation desiring such improvement, amendment or alteration, shall give notice of the intention to apply therefor, in two newspapers of general circulation, printed in the county wherein the principal office or place of business of said corporation is located, once a week for three weeks, setting forth briefly the character and objects of the desired improvements, amendments or alterations, and the intention to make application therefor.

Section 3.
(As amended
by Act of
1905, March
31, P. L. 93,
Section 1.)

The said corporation shall prepare a certificate, under its corporate seal, setting forth the character and objects of the proposed improvement, amendment or alteration of their charter, or the instrument upon which the said corporation is formed or established; also, that all reports required by the Auditor-General of the Commonwealth have been filed, and that all taxes due the Commonwealth of Pennsylvania have been paid, acknowl-

Section 11. (1). Any corporation may, as prescribed in this section, change its name, its period of duration, [change, reduce or add to the purpose or purposes for which it was incorporated]⁴, or otherwise amend its articles of incorporation: Provided, That the articles of amendment shall contain only such provision as it would be lawful and proper to insert in original articles of incorporation made at the time of making such amendment.

Power to
amend
articles of in-
corporation

⁴This is a change in the present law. Under the broad powers of amendment provided for in most States, the purpose may be changed. Twenty-four States expressly authorize such a change, while in seventeen others the power of amendment is so broad that in most cases it includes a change in the purpose. Only six States, including Pennsylvania, expressly prohibit it. The statutes of Massachusetts and Indiana contain provisions for the purchase of the stock of a dissenting stockholder. The difficulty of this provision is that it involves the employment of the capital stock of the corporation in the purchase of its own shares, thus tending to injure creditors.

The power to *reduce* the purposes is expressly given in this draft.

(2). The proposed amendment shall be adopted by a majority of the entire number of the board of directors, and submitted to a vote of the stockholders at any regular annual meeting or special meeting, notice that such

edged by the president and secretary of said corporation before the recorder of deeds in the county wherein such corporation has its principal office or place of business; which certificate, together with proof of publication of notice, as provided in Section 2 of the supplement of an Act of which this is an amendment, shall then be produced to the Governor of the Commonwealth, who shall examine the same, and if he find it to be in proper form, and that such improvements, amendments or alterations are or will be lawful and beneficial, and not injurious to the community, and are in accord with the purpose of the charter, and that all reports required by the Auditor-General of the Commonwealth have been duly filed, and that all taxes due the Commonwealth of Pennsylvania have been paid, he shall approve thereof and endorse his approval thereon, and direct letters patent to issue, in the usual form, reciting the said improvements, amendments or alterations; and the said certificate shall then be recorded in the office of the Secretary of the Commonwealth, and, with all its endorsements, shall then be recorded in the office for the recording of deeds in and for the proper county, where the principal office or place of business of said corporation is located; and from thenceforth the same shall be deemed and taken to be a part of the charter or instrument upon which said corporation so formed or established, to all intents and purposes, as if the same had originally been made a part thereof. (There is a proviso in relation to water companies.)

Section 4.

Nothing in this Act contained shall be construed * * * to authorize the right of eminent domain to be given to any corporation by amendment of its charter, nor to permit any change in the objects or purposes of such corporation as shown by its original charter.

Act of 1903,
April 22, P.
L. 251, Sec-
tion 1.
Change of
name.

It shall be lawful for any corporation of this Commonwealth, heretofore or hereafter created by any general or special law, to change its corporate title by resolution of its Board of Directors, adopted by a two-thirds vote thereof, approved at any annual meeting or special meeting duly called of the stockholders by a two-thirds vote thereof. Upon such approval by the stockholders, it shall be the duty of the president of said corporation, to file in the office of the Secretary of the Commonwealth,

amendment would be considered thereat having been given at least thirty days before such meeting: Provided, That if it is proposed to amend the articles so as to authorize an increase or reduction of the amount of the capital stock of a corporation, notice shall be given at least sixty days before such meeting.

Power to
amend
articles of in-
corporation
(Continued).

Waiver of
notice.

(3). If at such meeting a majority in interest of the stockholders shall vote for such amendment, articles of amendment shall be prepared setting forth such amendment and containing a statement that they have been regularly adopted as prescribed: [Provided, That if it is proposed to change or add to the purpose or purposes, it shall be necessary for two-thirds in interest of the stockholders to vote for such amendment.]

(4). The articles of amendment shall be signed by a majority of the directors and acknowledged by at least two of the subscribers before any person authorized by this Act to take acknowledgment of original articles of incorporation. The two directors acknowledging the articles of amendment shall at the same time make and subscribe an oath or affirmation, to be endorsed on the said articles of amendment, that the statements contained therein are true.

(5). The articles of amendment [together with the written assent, in person or by proxy, of a majority in interest of the stockholders, or, in the case of a change in or addition to the purpose or purposes, of two-thirds in interest of the stockholders]⁵ shall thereupon be filed in the office of the Secretary of the Commonwealth, who shall examine the same and if he shall find that the provisions of this Act have been complied with, he shall issue a certificate of amendment, unless such proposed amendment increases the period of duration of the corporation, or changes or adds to the purpose or purposes of the corporation, in which case the Secretary shall endorse his approval on the articles of amendment and submit them to the Governor, who, if he is satisfied that the provisions of this Act have been complied with, shall endorse his approval thereon and direct a certificate of amendment to issue.

⁵The provision requiring the stockholders to give written assent in person or by proxy, is taken from the New Jersey statute, Acts of 1896, April 21, Session Laws 277, Section 27.

a certificate, under the seal of the company, setting forth the resolution adopted by the board of directors and approved by the stockholders, the date of the adoption of such resolution by the board of directors and the date of its approval by the stockholders, the date of the original incorporation of the company, the Act of Assembly under which the said corporation was created, the name under which the said corporation was originally incorporated, and all subsequent changes therein, and the name which the corporation desires to adopt. The Secretary of the Commonwealth shall examine the records in his office, and if he find that the name desired by such corporation does not conflict with the name of any corporation appearing upon said records, he shall require the said certificate to be recorded, and shall issue to the said corporation a certificate, under his hand and the seal of his office, granting to said corporation the use of said new corporation title. The Secretary of the Commonwealth shall, upon the issuing of any such certificate, require the same to be recorded in a book kept for that purpose, and certify the said change in the corporate title to the Auditor-General of this Commonwealth: Provided, That any corporation, required to record the original certificate of incorporation in the office for the recording of deeds, shall, before being entitled to use the new corporate title, record in the office for the recording of deeds, where the original certificate of incorporation was recorded, the said certificate granted by the Secretary of the Commonwealth authorizing the use of the new corporate title. * * *

Act of 1893,
June 8, P. L.
355, Section
1. Change of
principal
office.

It shall be lawful for any corporation of this State, now existing or hereafter created, to change the location of its principal office, the place of its annual and other meetings of stockholders, or the time for holding such annual meetings, or either or all, by resolution of its board of directors, adopted by a two-thirds vote thereof, approved at any annual meeting or special meeting duly called of the stockholders by a two-thirds vote thereof. Upon such approval of the stockholders, it shall be the duty of the president of such corporation to file in both the offices of the Secretary of the Commonwealth and the Auditor-General of this Commonwealth, a report, under the seal of the company, specifying the change or changes so made. Nothing in this Act, however, shall authorize

At present a change in name requires a vote of two-thirds of the stockholders in interest. Under this sub-section, a majority in interest would be sufficient.

The Act of 1883, June 13, P. L. 122, and its amendment, the Act of 1905, March 3, P. L. 93 (see present legislation), requires the application to be made to the Governor, and letters patent to be issued by him, following in this respect the method of original incorporation. An examination of present legislation, however, will show that amendments involving a change of name, increase and decrease of capital stock, change of par value of shares, and change of principal office, can all be effected without the action of the Governor. On the other hand, re-chartering, or increasing the period of duration of a corporation, requires the action of the Governor. The sub-section as drawn, therefore, carries out the spirit of the present law, that all important changes should be passed on by the Governor. The requirement that the Secretary shall issue a certificate of amendment for all other changes, and therefore for changes involving increase and decrease of capital stock, change in par value of stock, change of name, and location of principal office, is in addition to the requirements of the present law.

Publication of amendments is required in the Act of 1883, *supra*, in regard to amendments generally, but is not provided for in the statutes which deal with specific changes. (See present legislation.)

It should be noted that no bonus is required to be paid if the period of duration is extended. This also appears to be a change in the present law. As in the original articles the period may be made perpetual, no reason is perceived why the bonus should be repaid for an extension.

(6). The amendment shall take effect upon the issuance of the certificate of amendment. Such certificate of amendment, or a copy thereof, duly certified by the Secretary of the Commonwealth, shall be [conclusive]⁶ evidence of such amendment.

⁶See Note 20, Section 6 (2), *supra*.

(7). The certificate of amendment, together with the articles of amendment, shall be recorded in the office of the Secretary of the Commonwealth in a book kept by him for that purpose, and he shall forthwith certify the said change or amendment to the Auditor-General.

(8). The certificate of amendment and the articles of amendment shall be recorded in the office of the Recorder of Deeds in which the certificate of incorporation and the original articles of incorporation were recorded. [The Recorder of Deeds, upon the recording of the said certificate of amendment, shall issue a certificate that the same has been recorded, and the said

Power to amend
articles of in-
corporation
(Continued).

the location of the principal office or the holding of the annual or other meetings of stockholders outside of the limits of this Commonwealth.

Act of 1874,
April 29, P.
L. 73, Section
40.

Re-charter.

Corporations created by or under the laws of this State, embraced within either of the classes named in section 2 of this Act, the charters whereof are about to expire by lapse of time from their own limitation, may be re-chartered, or the charter thereof renewed, under the provisions of this Act, by preparing, having approved and recorded, the certificate named in this section for the class of corporation of which the same is one, in addition to the requirements provided in this Act for a new corporation; the certificate for a re-charter shall state the fact that it is a renewal of the former charter, naming the corporation and the date of its first charter. It shall also be accompanied with a certificate, under the seal of the corporation, showing the consent of at least a majority in interest of such corporation to such re-charter. It shall also state the financial condition of the said corporation at the date of such certificate, showing capital stock paid in, funded debt, floating debt, estimated value of property and cash assets, if any. It shall expressly accept the provisions of the Constitution of this State and of this Act, expressly surrender all privileges conferred upon such corporation by its original charter that are not enjoyed by corporations of its class under this Act or general laws of this Commonwealth. * * *

From the date of letters patent * * * the said re-chartered corporation shall be and exist as a new corporation under the provisions of this Act and of its said renewed charter; and all of the rights, privileges, powers, immunities, lands, property and assets, of whatever kind or character the same may be, possessed and owned by the said original corporation, shall rest in and be owned and enjoyed by the said re-chartered corporation, as fully and with like effect as if its original charter had not expired, save as herein and by said certificate expressly stated otherwise; and all suits, claims and demands by said corporations in existence at the date of such recharter, shall and may be sued, prosecuted and collected under the laws governing the said corporation prior to its re-charter, and all claims and demands of every nature and character in existence at said re-char-

certificate, signed by the Recorder, shall be filed by the corporation in the office of the Secretary of the Commonwealth. If the certificate of the Recorder of Deeds shall not be filed in the office of the Secretary within thirty days after the date of the issuance of the certificate of amendment, the Secretary shall give notice, in writing, to the corporation of the default. If the corporation shall fail to comply with the requirements of this subsection within ten days after the receipt of such notice, it shall be subject to a penalty of one hundred dollars a day for each day thereafter during which the default shall continue, to be recovered in an action brought by the Attorney-General on behalf of the Commonwealth]⁷.

Power to
amend
articles of in-
corporation
(Continued).

The Act of 1883, June 13, P. L. 122 (see present legislation regarding general amendments), and also the Act of 1903, April 22, P. L. 251, Section 1, regarding change of name, require recording in the office of the recorder of deeds before the amendment takes effect. If recording in the office of the recorder of deeds is required for the protection of creditors and others in the case of original corporation, it seems unquestionable that such recording should also be required in the case of amendments to the charter.

The suggested sub-section follows the requirements of this Act in making the action of the Secretary in issuing the certificate the point of time at which the amendment takes effect. See Note 19, Section 6 (1), *supra*.

The provision for a penalty for non-recording is new. It follows the principle adopted throughout this Act in prescribing specific penalties for violation of any important provision, the penalty being stated immediately after the provision.

A change is made in this draft so as to require the articles of amendment to be recorded, and not a copy thereof.

ter, may be collected from and off the said re-chartered corporation as fully and with like effect as if no change had taken place.

Constitution
of Penna.,
Article 16,
Section 7.

Article 16, Section 7, of the Constitution of the State provides: "The stock and indebtedness of corporations shall not be increased except in pursuance of general law nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held, after sixty days' notice, given in pursuance of law."

Act of 1901,
Feb. 9, P. L.
3, Section 1,
as amended
1905, April
22, P. L. 280,
Section 1.

(The entire Act is printed in this place, though as far as it relates to increase of indebtedness it has to do with the subject matter of Section 17 of the suggested Act.)

Increase of
capital stock
or indebted-
ness.

The capital stock or indebtedness, or both, of any corporation created by general or special law may, with the consent of the persons or bodies corporate holding the larger amount in the value of its stock, be increased to such an amount in the aggregate of each, without regard to the amount of the other, and regardless of any limitation upon the amount of either, prescribed in any general or special law regulating any such corporations, as it shall deem necessary to accomplish and carry on and enlarge the business and purposes of such corporation. Such increase of either may be made at once or from time to time, as the majority in interest of the stockholders shall determine, as aforesaid; and upon the authorizing of any such increase of indebtedness by the stockholders of such corporation, in the manner hereinafter provided, it shall be lawful for such corporation to secure the payment of principal or interest, or both, of all or any part of such indebtedness, by mortgage, deed of trust, or other pledge of conveyance by way of security, of all or any part of its real and personal property, rights, privileges, and franchises, and in such manner and upon such terms as its board of directors may determine.

Section 2.

That any corporation desirous of increasing its capital stock or indebtedness, or both, as authorized by this Act, shall, by resolution of its board of directors, adopted by a majority of the entire number thereof, declare such purpose, and thereupon by resolution, similarly adopted, direct that the question of such proposed increase shall be submitted to the stockholders of such corporation for their consent; either

(A). At any prescribed regular annual meeting or adjournment thereof, the notice whereof, stating, *inter alia*, that such subject would be considered thereat, shall have been published once a week for sixty days prior to such meeting in at least one newspaper published in the county, city, or borough wherein the chief office or place of business of the corporation is situate. At said meeting the question shall be submitted to the stockholders, and it shall be the duty of the president and secretary of said meeting, by such agencies or methods as to them may seem meet, to ascertain whether the persons and bodies corporate holding the larger amount in value of the stock of said corporation shall have consented to such increase, and upon being so satisfied to certify in duplicate the fact, under oath duly administered: Provided, That should a stock vote be duly demanded at said meeting, it shall be the duty of the president and secretary in ascertainment of the fact of the consent, to cause such vote to be taken at the same time and place, by the same persons and in the same manner, as the vote for directors or managers of such corporation shall be taken; or

(B). At a special meeting of the stockholders, notice of the time, place and object of which shall have been published once a week for sixty days prior to said meeting in at least one newspaper published in the county, city or borough wherein such office or place of business is situated. At such meeting thus called, or any adjournment thereof, an election of the stockholders shall be taken for or against such increase, which shall be conducted by three judges, stockholders of such corporation, appointed by the board of directors, to hold said election, and if one or more of said judges be absent the judge or judges present shall appoint a judge or judges who shall act in the place of the judge or judges absent; and said judges shall respectively take and subscribe an oath or affirmation before an officer authorized by law to administer the same, well and truly and according to law to conduct such election to the best of their ability; and the said judges shall decide upon the qualifications of voters, and when the election is closed count the number of shares voted for

and against such increase, and declare whether the persons and bodies corporate holding the larger amount of the stock of such corporation have consented to such an increase or refused to consent thereto, and shall make out duplicate returns of said election, stating the number of shares of stock that voted for such increase and the number that voted against such increase, and subscribe and deliver the same to one of the chief officers of said company. Each ballot shall have endorsed thereon the number of shares thereby represented, but no share or shares transferred within sixty days shall entitle the holder or holders thereof to vote at such election or meeting; nor shall any proxy be received or entitle the holder to vote unless the same shall bear date and have been executed within four months next preceding such election or meeting; and it shall be the duty of such corporation to furnish the judges at said meeting with a statement of the amount of its capital stock, with the names of the persons or bodies corporate holding the same, and number of shares by each respectively held, which statement shall be signed by one of the chief officers of such corporation, with an affidavit thereto annexed that the same is true and correct to the best of his knowledge and belief.

Section 3.

That it shall be the duty of such corporation, if consent is given to such increase, to file in the office of the Secretary of the Commonwealth, within thirty days after such election, one of the copies of the certificates of the president and secretary of the annual meeting, or one of the copies of the return of such election at the special meeting hereinbefore provided for, with a copy of the resolution and notice calling the same thereto annexed; and thereafter the increase may be made at such time or times as shall be determined by the directors.

Upon the actual increase of the capital stock or indebtedness of such corporation, made pursuant thereto, it shall be the duty of the president or treasurer of such corporation, within thirty days thereafter, to make a return to the Secretary of the Commonwealth, under oath, of the amount of such increase actually made, and con-

currently therewith such corporation shall pay to the State Treasurer for the use of the Commonwealth, such bonus on the actual increase shown by said return as shall then be prescribed by law. In case of neglect or omission to make said return, such corporation shall be subject to a penalty of five thousand dollars, in addition to the bonus, which penalty shall be collected on an account settled by the Auditor-General and State Treasurer as accounts for taxes due the Commonwealth are settled and collected; and the Secretary of the Commonwealth shall cause said return to be recorded in a book for that purpose and furnish a copy of the same to the Auditor-General.

Section 4.

Nothing in this Act contained shall be construed as compelling resort to the process herein provided in the case of indebtedness contracted in the usual course of corporation business. * * *

Act of 1893,
June 8, P. L.
351, Section
1. (As
amended by
Act of 1905,
April 22, P.
L. 264, Sec-
tion 1.)
Reduction of
capital stock.

The capital stock of any corporation created by general or special law, may be reduced, from time to time, by the consent of the persons or bodies corporate holding the larger amount in value of stock of such corporation: Provided, That such reduction shall not be below the minimum amount of capital stock required by law for the formation of corporations formed for similar purposes.

Section 2.

That any corporation desirous of reducing its capital stock as provided by this Act shall, by a resolution of its board of directors, call a meeting of its stockholders therefor, which meeting shall be held in its chief office or place of business in this Commonwealth, and notice of the time, place and object of said meeting shall be published once a week for sixty days prior to such meeting in at least one newspaper published in the county, city or borough wherein such office or place of business is situate.

Section 3.

At the meeting called pursuant to the second section of this Act, an election of the stockholders of such corporation shall be taken for or against such reduction, which shall be conducted by three judges, stockholders of said corporation, appointed by the board of directors to hold said election, and if one or more of said judges be absent, the judge or judges present shall appoint a judge or judges who shall act in the place of

the judge or judges absent, and who shall respectively take and subscribe an oath or affirmation before an officer authorized by law to administer the same well and truly and according to law, to conduct such elections to the best of their ability, and the said judges shall decide upon the qualification of voters, and when the election is closed, count the number of shares voted for and against such reduction, and declare whether the persons or bodies corporate holding the larger amount of the stock of such corporation have consented to such reduction or refused to consent thereto, and shall make out duplicate returns of said election, stating the number of shares of stock that voted for such reduction and the number that voted against such reduction, and subscribe and deliver the same to one of the chief officers of said company.

Section 4.

Each ballot shall have endorsed thereon the number of shares thereby represented, but no share or shares transferred within sixty days shall entitle the holder or holders thereof to vote at such election or meeting, nor shall any proxy be received or entitle the holder to vote unless the same shall bear date and have been executed within three months next preceeding such election or meeting, and it shall be the duty of such corporations to furnish the judges at said meeting with a statement of the amount of its capital stock with the name of persons or bodies corporate holding the same, and number of shares by each respectively held, which statement shall be signed by one of the chief officers of such corporation with an affidavit thereto annexed that the same is true and correct to the best of his knowledge and belief.

Section 5.

That it shall be the duty of such corporation, if consent is given to such reduction, to file in the office of the Secretary of the Commonwealth, within thirty days after such election or meeting, one of the copies of the return of such election provided for by the third section of this Act, with a copy of the resolution and notice calling the same thereto annexed, and upon the reduction of the capital stock of such corporation made pursuant thereto, it shall be the duty of the president or treasurer of such corporation, within thirty days thereafter, to make a return to the Secretary of the Commonwealth, under oath, of the amount of such reduction, and in case of neglect or omission so to do such corporation shall

be subject to a penalty of five thousand dollars, which penalty shall be collected on an account settled by the Auditor-General and State Treasurer as accounts for taxes due the Commonwealth are settled and collected, and the Secretary of the Commonwealth shall cause said return to be recorded in a book kept for that purpose and furnish a certified copy of the same to the Auditor-General.

Act of 1901,
July 2, P. L.
606, Section
1.
Change of par
value.

It shall be lawful for any corporation, organized under the laws of this State, to change the par value or face value of the shares into which its capital stock is divided. Such change shall be authorized by a vote of a majority of the stockholders of any such company, present in person or proxy at any annual meeting, or any special meeting duly called for that purpose. Such change of the par value of the capital stock shall not be taken to increase or diminish, or change in any way, the total aggregate par value of the capital stock which said company may be authorized to issue or may have issued, but only to change the number of shares into which the same may be divided.

Section 2.

In case the stockholders, so present at such meeting, shall vote to increase or diminish the par value of the shares of the capital stock of the company as above provided, it shall be the duty of the proper officers of the company to file a certificate of the fact in the office of the Secretary of the Commonwealth, under the seal of the corporation, and thereupon the proper officers of such corporation shall issue to the stockholders the proper number of shares of the capital stock of the new par value, upon the surrender of such outstanding shares by the respective holders and the cancellation thereof.

For Act of 1893, June 8, P. L. 351, Section 5, in regard to the return upon a reduction of capital stock, see Present Legislation, Section 11, *supra*.

Act of 1901, Feb. 9, P. L. 3, Section 3, in regard to return upon increase of capital stock, see Present Legislation, Section 11, *supra*.

Section 12. (1). If the articles of incorporation of any corporation shall be amended as prescribed in section 11 of this Act, so as to authorize an increase or a reduction in the amount of the capital stock, the increase or reduction may be made thereafter at such time or times as shall be determined by the directors, [but nothing in this Act shall be held to permit the reduction of the capital stock of the corporation to an amount less than the total indebtedness of the corporation, or to permit the distribution of the capital of the corporation among its stock-

Actual increase or reduction of capital stock —return and bonus.

Act of 1868, March 31, P. L. 50, Section 1. It shall and may be lawful for any and all companies incorporated and organized under the laws of this Commonwealth * * * to invest the surplus or other funds or earnings of such companies * * * in the purchase from holders thereof any of the shares of the capital stock of the respective company. * * *

holders without the payment or consent of its creditors, or to relieve the owners of any stock from any liability].^s

Actual increase or reduction of capital stock — return and bonus (Continued).

^sThe proviso is new to our statutory law. The last two provisions unquestionably express the common law. It is suggested that the reduction of the capital stock of the corporation to an amount less than the total indebtedness of the corporation should also be prohibited. The prohibition is embodied in the statutes of eleven States. In twenty-two other States there are various provisions designed to protect creditors, as, for example, that a reduction of the capital stock shall not prejudice or impair the rights of creditors. In Delaware there can be no reduction until all the debts of the corporation are either secured or discharged.

(2). Upon any actual increase or reduction, it shall be the duty of the president or treasurer of such corporation, within thirty days thereafter, to make return to the Secretary of the Commonwealth, under oath, of the amount of such increase or reduction actually made, and concurrently therewith, if the capital stock shall have been increased, such corporation shall pay to the State Treasurer, for the use of the Commonwealth, a bonus of one-third of one percentum on the amount of the actual increase. The Secretary of the Commonwealth shall cause such return to be recorded in a book kept by him for that purpose, and shall furnish a copy of the same to the Auditor-General.

(3). In case of neglect or omission to make said return, such corporation shall be subject to a penalty of \$5,000 in addition to the bonus, which penalty shall be collected on an account settled by the Auditor-General and the State Treasurer, as accounts for taxes due the Commonwealth are settled and collected.

Section 13. (1). No corporation shall have the power to purchase or otherwise acquire directly or indirectly any share or shares of its own capital stock except:

Power to hold its own shares.

(a). [When the par value of the share or shares so purchased or otherwise acquired shall have been paid in full] and the consideration for such share or shares shall be paid out of the surplus or net profits of the corporation; or

(b). When such share or shares shall have been forfeited for non-payment of calls or assessments as prescribed in Section 23; or

Power to hold
its own
shares
(Continued).

(c). When such share or shares shall have been purchased from a dissenting stockholder as prescribed in Section 57.⁹

⁹At present, in this State, a corporation can invest in its own stock, *Dock vs. Schlichter Cordage Co.*, 167 Pa. 370 (1895); but not when the corporation is insolvent, *Columbian Bank's Estate*, 147 Pa. 422 (1892); see also the provisions of the Act of 1868 under Present Legislation.

The statutes of a majority of the States have no express provision upon this subject. In Rhode Island and West Virginia the power is granted, and also in Connecticut, if three-fourths of the stockholders approve; in Delaware, Oklahoma, North and South Dakota, the surplus may be used to purchase the stock of the corporation. In Connecticut, Kentucky and New York, power is given to corporations to take their own stock to prevent loss upon debts previously contracted. In Wyoming, a corporation is prohibited from investing in its own stock.

It is submitted that *prima facie* such an investment is wrong. It reduces, at least temporarily, the capital stock, which is the fund on which creditors rely for payment. On the other hand, there would appear to be no reason why the corporation should not invest its surplus in its stock, except where the stock is not full paid, in which latter case, to the extent to which it is not full paid, the fund on which the creditors rely is diminished as long as the stock is held by the corporation. The present section is drafted to express this view of the law.

[(2). If any corporation, in violation of the provisions of this section, shall purchase or otherwise acquire any share or shares of its own capital stock, whose par value shall not have been paid in full, or if the consideration for such share or shares shall be paid out of the capital stock, the directors under whose administration it occurs, except those dissenting thereto, who shall have filed their objections with the secretary of the corporation at the time, or who, being absent, shall have so filed their objections upon learning of such action, shall be jointly and severally liable to the corporation, (a) where the par value shall not have been paid in full, for an amount equal to the amount remaining unpaid on said share or shares, unless said share or shares shall have been reissued to a bona fide purchaser; and also (b) where the consideration for such share or shares shall have been paid out of the capital stock, for an amount equal to the amount of the capital stock so withdrawn, except that

if the said share or shares shall have been resold the amount for which the directors shall be liable shall be reduced by the amount actually paid for such share or shares by the purchaser.

Power to hold
its own
shares
(Continued).

If the directors shall refuse or neglect, for sixty days after such share or shares shall have become the property of the corporation, to bring action in the name of the corporation to enforce the said liability, any director, or any stockholder, or any judgment creditor of the corporation, may maintain such action in the name and on behalf of the corporation.]¹⁰

¹⁰If part of the capital stock is employed in the purchase of shares of the corporation's own stock, the protection to creditors is lessened to the extent of the amount so employed. In such case, it is submitted that there should be an immediate liability imposed on those who have wrongfully expended the capital, to replace the amount so expended, instead of compelling creditors to wait until the insolvency of the company, when the directors responsible for the act may no longer be connected with the company and may be difficult to reach. Where the corporation, even with its surplus, purchases stock not full paid, to protect fully the creditors of the company, the directors should be required to pay at once to the corporation the amount unpaid on the stock. The liability of the directors under this section, it will be noted, is terminated or reduced whenever the stock is resold to a bona fide purchaser. If the sale does not take place until after the directors have been subjected to the liability, the loss falls on the directors. This, it is submitted, is as it should be, because the act of the directors in authorizing the purchase of the stock was wrongful, and at the time the liability was enforced their act had impaired the capital of the corporation. The fact that subsequently a circumstance has occurred which would restore the capital of the company, even though the directors had not been made to restore it, does not give the directors any equity.

[(3). Shares of the capital stock of a corporation, belonging legally or equitably to such corporation, shall not be voted upon, directly or indirectly.]¹¹

¹¹This expresses the common law.

[(4). Nothing in this section shall be held to prevent a corporation from acquiring any fully paid shares of its own capital stock by way of gift or bequest, or from receiving any share or shares of its own stock in satisfaction of a debt due the corporation which cannot be collected in any other manner.]

Act of 1901,
July 2, P. L.
603, Section
1.

Hereafter, any corporation organized for profit, created by general or special laws, may purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the shares of the capital stock of, or any bonds, securities or evidences of indebtedness created by, any other corporation or corporations of this State or any other State, and while the owner of said stock may exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

Act of 1874,
April 29, P.
L. 73, Section
39, Clause 12.

Any such corporation (Clause 18, Corporations) may, from time to time, acquire and dispose of real estate, and may construct, have or otherwise dispose of dwellings and other buildings; but no power to sell or release the real estate of such corporations shall be exercised by the directors thereof, unless such power be expressly given in the certificates originally filed, without the consent of a majority of the stock in value consenting and agreeing to such sale or lease before making the same, which consent shall be obtained at a meeting of the stockholders to be held for that purpose, of which meeting thirty days' notice shall be given in one of the

Section 14. (1). Any corporation may purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the shares of the capital stock of, or any bonds, securities, or evidences of indebtedness created by, any other corporation or corporations of this Commonwealth, and while the owner of the said stock may exercise all the rights, powers and privileges of ownership, including the right to vote thereon: [Provided, That such corporation shall at no one time be possessed of the legal or equitable title to more than twenty percentum of the total number of shares then issued and outstanding of the capital stock of any one other corporation].¹²

Power to hold
shares and
bonds of
other corpo-
rations.

¹²The limitation contained in this section, if adopted, would produce an important change in the present law. It would prohibit what is known as the "pyramid" and other forms of purchase for control. At the same time, the limitation, in view of the large number of corporations whose stock may be purchased, in no wise curtails the ability of the corporation to make purchases for the purpose of investment.

(2). [If any corporation shall at any one time be possessed of the legal or equitable title to more than twenty percentum of the shares, then issued and outstanding, of the capital stock of any other corporation, any stockholder of the corporation holding such stock, or any stockholder of the corporation whose stock is so held, may maintain a suit in equity to enjoin the said corporation from exercising the right to vote on the said stock in excess of the twenty percentum, or from exercising any other rights, powers and privileges of ownership thereon, and to enforce the sale thereof.]

Section 15. Any corporation may, with the consent of a majority in interest of its stockholders, obtained at any regular annual meeting or special meeting duly called, lease its corporate business, in whole or in part, together with the property incident thereto, to, or enter into contracts for the use or lease of the corporate business, in whole or in part, together with the property incident thereto, of, any other corporation formed for the same purpose or purposes, upon such terms as may be agreed upon with the said corporation. The corporation so leasing may use and operate such property in accordance with the contract or lease, and may guarantee the pay-

Power to
lease entire
corporation
property.

newspapers of the proper county, and such consent shall be evidenced only by the written signatures of said stockholders.

Act of 1905,
March 24, P.
L. 56, Section
1.

* * * It shall and may be lawful for any corporation organized under the provisions of this Act either for the purpose of carrying on some manufacturing business, or for the supply of water, or for the manufacture or supplying of light, to subscribe for, take, purchase, hold and dispose of the bonds or stock in any company of the same character incorporated under the provision of this Act or its supplements, or guarantee the payment of said bonds and the interest thereon, or either principal or interest, or to enter into contracts for the use or lease of the corporate property, real, personal or mixed, of such company, upon such terms as may be agreed upon with the company or companies owning the same, to run, use, and operate such property in accordance with such contract or lease.

Act of 1893,
May 11, P. L.
42, Section 1.

From and after the passage of this Act corporations organized for profit under the laws of the Commonwealth of Pennsylvania, may, out of the earnings of said corporations, grant allowances or pensions to employees for faithful and long continued service, who have in such service become old, infirm or disabled: Provided, That the provisions of this Act shall not apply to any director or officer of any such company or corporation.

Constitution
of Penna.,
Article 16,
Section 7.

(Prohibition against the issue of bonds except for money, labor done, or money or property actually received, and the increase in bonded indebtedness except in pursuance of general law and with the consent of the persons holding the larger amount in value of the stock obtained, at a meeting to be held after sixty days' notice.).

Act of 1905,
April 22, P.
L. 280,
amending Act
of 1901, Feb.
9, P. L. 3,
Section 1.

(This Act provides that any corporation, with the consent of those holding the larger amount in value of stock, may increase its indebtedness to such an amount "as it shall deem necessary to accomplish and carry on and enlarge the business and purposes of such corporation." It also provides that the increase may be made at once or from time to time, and upon the authorizing of any

ment of the bonds, and the interest thereon, of the corporation whose property is so leased.¹³

Power to
lease entire
corporation
property
(Continued).

¹³The section is intended to cover the case in which the corporation desires to take over, by way of lease, the business, or a part of the business, of another corporation, or to part, by way of a lease, with its own business, or a portion of its business, to another corporation. It has nothing to do and is believed to be so worded that it does not cover the ordinary case of the lease of specific property which the corporation does not desire to sell and for which it has no present use.

The present legislation seems on the whole to have the same object, but that object is affected, so far as clause 18 corporations are concerned, by the provision that every lease of the real property of such corporations shall be submitted to a vote of the stockholders.

Section 16. Any corporation may grant allowances or pensions to employees for faithful and long continued services, who have, in such service, become old, infirm or disabled: Provided, That the provisions of this section shall not apply to any director of any such corporation who is not an officer.¹⁴

Power to
grant pen-
sions.

¹⁴Words "or officer" omitted from this draft, as no reason is perceived why an officer should not be pensioned.

Section 17. Any corporation may be authorized to issue bonds or to increase its bonded indebtedness, and may secure the same by mortgage on all or any part of its property or franchises, or both, by the same method as an increase in capital stock is authorized under the provisions of Section 11. When any such issue or increase is authorized the actual issue or increase may be made thereafter at such time or times as shall be determined by the directors; provided, however, that nothing in this section shall be held to compel a resort to the process herein provided in the case of indebtedness contracted in the usual course of the corporation business.¹⁵

Bonded in-
debtedness.

¹⁵The suggested section is confined to bonded indebtedness, which, it is submitted, is the only subject in regard to the creation of indebtedness which requires legislative regulation. This

such increase of indebtedness it may secure the payment of the principal or interest or both, by mortgage, deed of trust or other pledge or conveyance, of all its real and personal property, rights, privileges and franchises. See Present Legislation, Section 11, *supra*.)

Act of 1874,
May 15, P. L.
186, Section
1.

It shall and may be lawful for any corporation existing by or under the authority of any law of this Commonwealth, which shall have mortgaged any part of its estate, corporate property and franchises, for the security of all or any portion of its bonded indebtedness, to mortgage its remaining estate, corporate property and franchises, or any part of the same, as a further and additional security for the same bonded indebtedness: Provided, however, that no lien then existing upon such remaining estate, property and franchises, shall be thereby impaired or affected.

Act of 1873,
Feb. 17, P. L.
35.

(This Act makes it lawful for corporations to execute and deliver mortgages on real estate to secure the payment of their notes, bills and other negotiable paper.)

Act of 1873,
Feb. 20, P. L.
36, Section 2.

(This Act authorizes mining and manufacturing companies to make bonds and mortgages and use them as collateral on which to obtain discounts from banks or individuals.)

Act of 1878,
April 17, P.
L. 22, Section
1.

(This Act authorizes exhibition companies to mortgage their real and personal property and franchises, to secure the payment of any indebtedness or evidences of indebtedness.)

section deals with the method of creating and increasing bonded indebtedness. The method prescribed for increasing stock is followed, authority being first secured from the Secretary of the Commonwealth after the approval of the stockholders, and the actual issue or increase being made at such time or times as directors shall thereafter determine. Bonded indebtedness
(Continued).

Present legislation, though not in terms confined to bonded indebtedness, has been practically so interpreted by the courts. The constitutional provision cited under Present Legislation, which prohibits the increase of indebtedness except with the consent of a majority of the stockholders, obtained at a meeting held after sixty days' notice, has been held not to apply to indebtedness created in the ordinary course of business, *Manhattan vs. Phalan*, 128 Pa. 110 (889); *Powell vs. Blair*, 133 Pa. 550 (1890); *Quaker City National Bank vs. Gilkeson*, 18 Pa. C. C. 557 (1896). It has also been held that this provision does not apply to mortgages executed to creditors in exchange for other securities, *Ahl vs. Rhoades*, 84 Pa. 319 (1877), or to mortgages given to raise funds for the purpose of paying off incumbrances, in order to protect a debt due to the corporation, *Lewis vs. Jeffries*, 86 Pa. 340 (1877), or to secure debts incurred in the purchase or improvement of the property. An issue of bonds, however, is within the constitutional prohibition. *Maas vs. Penna. &c. Co.*, 1 Mona. 497 (1889).

Words "subject to the limitation prescribed in Section 18" are omitted in this draft because Section 18 is taken out.

In the first tentative draft, Section 18, a limitation was imposed on bonded indebtedness secured by mortgage or lien on all or any part of the property or franchises of the company, the provision being that the bonded indebtedness so secured could not be greater than the amount of the paid in capital stock. This provision has been omitted from the present draft because further investigation has convinced the Committee that it is unwise to interfere to such an extent with the business management of the corporation.

The present law really imposes no restriction. The mortgage securing the first issue of bonds is limited to one-half of the amount of the capital stock paid in, but thereafter the indebtedness may be increased indefinitely and the mortgage securing the same may be for any amount.

The limitation on the amount of indebtedness which a corporation may incur, as provided in the statutes of the various States, is as follows: In Illinois and Wyoming, the directors are liable if the indebtedness exceeds the amount of the capital stock; in Kansas, Ohio, and Texas, the power to borrow money is limited by the amount of the capital stock; in North and South Dakota and Oklahoma, the indebtedness must not exceed the subscribed capital stock; in Rhode Island, it must not exceed the paid in capital stock, while in Tennessee, the directors are liable if it exceeds the paid in capital stock; in Arizona, Iowa, and Nebraska, the indebtedness must not exceed two-thirds of the capital stock, and in Vermont, two-thirds of the paid in capital stock; in Missouri, the bonded indebtedness is limited to the amount of the capital stock, and in Washington, to ten times the amount of the capital stock; in New Hampshire, the indebtedness must not exceed one-half of the value of the corporate property.

Act of 1889,
May 21, P. L.
257, Section
1. (Amend-
ing Act of
1874, April
29, P. L. 73,
Section 13.)

It shall be lawful for all corporations to borrow money or secure any indebtedness created by them, by issuing bonds, with or without coupons attached thereto, and to secure the same by a mortgage or mortgages to be given and executed to a trustee or trustees, for the use of the bondholders, upon their real estate and machinery or on their real estate alone, to an amount not exceeding one-half of the capital stock of the corporation paid in, at a rate of interest not exceeding six percentum; (here follows a special proviso in relation to certain public service corporations, followed by a proviso that the section shall not apply to a corporation which has by statute a right to give a high rate of interest and to mortgage its property for a greater amount.)

Act of 1874,
April 29, P.
L. 73, Section
39, Clause 6.

The whole amount of the debts which any such company (Clause 18, corporations) at any time owes, shall not exceed the amount of its capital stock actually paid in, unless such debt be for unpaid purchase money for land bought, which debt shall only be a lien upon and collectible from said land; and in case of any excess, the directors, under whose administration it occurs, shall be jointly and severally liable to the extent of such excess for all the debts of the company then existing, and for all that are contracted, so long as they respectively continue in office, and until the debts are reduced to the amount of the capital stock: Provided, That any of the directors who are absent at the time of contracting any debts, contrary to the foregoing provisions, or who object thereto, may exempt themselves from liability by forthwith giving notice of the facts to the stockholders at a meeting which they may call for that purpose; (the rest of the section deals with the liability for making false returns.)

Act of 1874,
April 29, P.
L. 73, Section
38, Clause 2.

Every such corporation (iron or steel companies) may make and issue bonds, with or without coupons attached, bearing interest not exceeding six percentum per annum, and sell, exchange or otherwise dispose of the same, upon such terms and conditions as they may deem advisable, and such bonds, and the interest thereon, may be secured by a mortgage or mortgages upon the corporate franchises, real and leasehold estate: Provided, That they shall not issue bonds for a greater sum than three times the amount of capital stock paid in.

Section 18. No corporation shall by any implication or construction be deemed to possess the power to carry on the business of discounting bills, notes, or other evidences of debt, or of receiving deposits, or of buying and selling bills of exchange, nor shall it issue any bill, note, check or other evidence of debt for circulation as money.¹⁶

Banking
powers pro-
hibited.

¹⁶The section as drafted is intended to express in more concise language the present law.

Act of 1876,
April 17, P.
L. 30, Section
10. Amend-
ing Act of
1874, April
29, P. L. 73,
Section 36.

(This section provides that companies "for holding, leasing and selling real estate, or for the establishment and maintenance of a school or boarding house, or opera and market house, hotel and drove yard, or both * * * may borrow money, in the manner provided in Section 13 of this Act (see the amendment of Section 13, by the Act of 1889, supra), to an amount equal to the capital stock of the company paid in, and secure the same by mortgage upon the said lots, buildings and fixtures and appurtenances. The lots referred to are "all the buildings, lots of land, premises, appurtenances necessary to the successful maintenance and carrying on of the business.")

Act of 1849,
April 21, P.
L. 673, Sec-
tion 1.

Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the passage of this Act it shall not be lawful for any corporation within this Commonwealth, directly or indirectly, either by itself or through any agent or agents, individual or individuals, to make, issue, re-issue, pay out or circulate, or cause to be issued, re-issued, put out or circulated, any certificate, check, order or due bill, or acknowledgment of indebtedness of any description for any purpose whatsoever, payable or redeemable in any goods, property or effects, or payable or redeemable in anything except in gold and silver, and that any violation of the provisions of this Act shall be held and deemed to be a forfeiture of the charter of any company so offending, and any private citizen may by quo warranto proceed according to law, to have such forfeiture declared: Provided, That this Act shall not be construed to authorize any corporation or individual, not expressly authorized by existing law, to issue any note, bill, check or certificate whatever, in the nature or similitude of a bank note, and intended for circulation; and that all laws inconsistent with this Act be, and the same are hereby repealed: And provided further, That this section shall not be construed so as to prevent any corporation from drawing orders in the ordinary course of business, not intended for circulation, or in payment of interest, and that such orders shall not be negotiable.

Act of 1905, March 24, P. L. 56, Section 1. Amending prior Acts.) * * * The stock of every corporation created under the provisions of this statute (Act of 1874) shall be deemed personal property. * * *

Act of 1876, April 17, P. L. 30, Section 4. (Amending Act of 1874, April 29, P. L. 73, Section 17.) * * * No such corporation shall issue either bonds or stock except for money, labor done or money or property actually received, and all fictitious increase of stock or indebtedness in any form shall be void * * * (except for the words "in any form" this Act is identical with the Constitution of the State, Article 16, Section 7).

Act of 1905, March 24, P. L. 56, Section 1. (Amending prior Acts.) * * * No note or obligation given by a stockholder, whether secured by pledge or otherwise, shall be considered as a payment of any part of the capital stock.

Act of 1876, April 17, P. L. 30, Section 4. (Amending Act of 1874, April 29, P. L. 73, Section 4.) Every corporation created under the provisions of this Act or accepting its provisions, may take such real and personal estate, mineral rights, patent rights and other property, as is necessary for its purposes of its organization and business, and issue stock to the amount of the value thereof, in payment thereof, and the stock so issued shall be declared and taken to be full paid stock, and not liable to any further calls or assessments; and in the charter and the certificates and statements to be made by the subscribers and officers of the corporations, such stock shall not be stated or certified as having been issued for cash paid into the company, but shall be stated or certified in this respect according to the fact.

Act of 1889, April 17, P. L. 37, Section 2. It shall be lawful for any corporation (corporations organized for the building of ships, vessels and boats, and carriage of persons and property thereon) increasing its capital under the provisions of this Act, to take such real and personal estate, mineral rights and patent rights and other property as is necessary for the purposes of its organization and business, in payment for subscriptions to the stock so issued, and the stock

PART IV.

CAPITAL STOCK AND BONDS.

Section 19. (1). Shares of the capital stock shall be deemed personal property. Character and payment.

(2). No corporation shall issue either bonds or stock except for money, labor done, or money or property actually received, and all fictitious increase of stock or indebtedness in any form shall be void.

(3). No note or obligation given by a stockholder, whether secured by pledge or otherwise, shall be considered as a payment of any part of the capital stock.

Section 20. (1). [If it is proposed to issue any shares or bonds in consideration for property to be purchased or otherwise acquired by the corporation, a certificate signed and sworn to by a majority of the directors and filed in the office of the Secretary of the Commonwealth shall contain a statement setting forth: Issue of shares or bonds for property.

(a). If tangible property is to be purchased or otherwise acquired, its location, quantity and description, and the number and par value of the shares or the number and value of the bonds to be issued therefor, and if intangible property is to be purchased or acquired, a full description thereof and the number and par value of the shares or the number and value of the bonds to be issued therefor.

(b). The names and post office addresses of the owners of said property, and which of them, if any, are incorporators, officers, directors or stockholders of the corporation.

(c). If the owners of said property, or any of them, are incorporators, or, if after incorporation, officers, directors or stockholders of the corporation, a statement of the prices paid or agreed to be paid by them for the property so to be sold or transferred

so issued, after payment made of the full par value thereof, shall be declared and be full paid stock, not liable to any further calls or assessments, and the holders of stock so full paid shall not be liable in their individual capacity for any of the debts of the corporation, except for debts due laborers, mechanics or clerks, for services rendered while in the employ of the corporation, and in that case for no period exceeding six months.

to the corporation, and copies of all contracts by which the said owners acquired the ownership to said property or the control thereof.]

Issue of
shares or
bonds for
property
(Continued).

(2). [It shall thereupon be the duty of the Secretary of the Commonwealth to appoint two or more appraisers, who shall personally examine the said property and estimate the fair cash value thereof, and report such estimated valuation to the Secretary in a statement signed and sworn to by each appraiser. The Secretary shall fix the compensation of such appraisers, which shall be paid by the corporation.]

(3). [The Secretary of the Commonwealth shall then issue a certificate specifying the valuation of the property as appraised, or such other valuation as may be approved by him, and in no case shall the total par value of the shares or the value of the bonds issued therefor exceed such approved valuation. The valuation as approved shall be conclusive against all persons.]

(4). Shares so issued in consideration for the said property shall be deemed to be fully paid, but in all statements and reports of the corporation they shall be stated or reported as issued for property, and not as issued for money.

(5). [If any corporation shall issue any shares or any bonds for property in violation of the provisions of this section such issue shall be void, and a decree of cancellation shall be entered in an action brought by the Attorney-General on behalf of the Commonwealth, and any property received for the said shares or bonds, or its equivalent in value, shall be returned to the former owner or owners thereof, subject, however, in the case of an illegal issue of stock, to the prior payment of all creditors who have extended credit to the corporation on the faith of such issue. The directors under whose administration such illegal issue of stock is made, except those dissenting thereto, who shall have filed their objections with the secretary of the corporation at the time, or who, being absent, shall have so filed their objections upon learning of such action, shall be jointly and severally liable to any creditor for any loss or damage caused by such issue.]¹

¹The suggested section changes the law of the State. At present stock or bonds may be issued for property, though the

property may be greatly overvalued, without any resulting liability, no matter how great the loss to creditors, if the creditors fail to prove fraud. There is no method of preventing intentional overvaluation. The suggested section reflects the idea that it is better to prevent, if possible, overvaluation, than impose liability for harm resulting from overvaluation. It is submitted that the only practical method of doing this is to provide for an official investigation and appraisalment of the property before the stock or bonds are issued. When the official investigation is had, it is only proper that it should be conclusive, even though an error may have been made by the appraisers. This is provided for in sub-section 3.

Issue of
shares or
bonds for
property
(Continued).

If the section is adopted, it is not likely that anyone will issue stock or bonds for property without complying with its provisions. Sub-section 5, therefore, is not as important as it would be if sub-section 3 did not provide that the valuation as approved should be conclusive against all persons. Sub-section 5 is drawn on the theory that the issue of stock or bonds in violation of the section is a wholly unauthorized issue. There is, therefore, no liability on the person who has contributed the property to make up the difference, if any, between the actual value and the value of stock which he has received. On the other hand, he has been a party to a transaction, which has perhaps caused the company to announce that it has capital stock paid in to a certain amount, which assertion is false. The holder of the unauthorized issue of stock, therefore, should not, it is submitted, be allowed to obtain the property which he has transferred to the company, or its equivalent in value, until all the creditors of the corporation who have extended credit to the company on the faith of the stock being full paid shall have been satisfied.

The part of sub-section 5 declaring the issue void is taken from the Iowa statute. The Iowa statute, as well as the proposed Federal Incorporation Act (H. R. 20142, Sixty-first Congress, Section 2), provide for official investigation similar to this section. The English and Continental statutes provide for an elaborate investigation by the shareholders. It is submitted that such an investigation, while it protects shareholders, does not protect creditors or subsequent purchasers of stocks or bonds.

In the first tentative draft expressions of opinion as to the advisability of the provisions of this section were especially solicited. The Committee has received a number of communications condemning the method prescribed in this section, the main objections being the delay and the administrative machinery involved.

The Committee believes that these objections have great force, at least until the question of the organization of a department competent to administer the provisions is carefully investigated. If the Act is to go into force at once the Committee would recommend that sub-section 1 be so altered as to require the certificate to be signed and sworn to by all the directors, that an affidavit of at least a majority of the directors that they have personally examined the property, and that the value fixed is, in their judgment, fair and reasonable, be endorsed on

See Constitution, Article 16, Section 7, and Act of 1876, April 17th, P. L. 30, Section 4, as set forth under Section 20, *supra*.

the certificate; that sub-sections 2 and 3 be omitted, and sub-section IV be changed to read as follows: "Shares so issued in consideration for the said property shall, in all statements and reports of the corporation, be stated or reported as issued for property and not as issued for money." **Issue of shares or bonds for property (Continued).**

Section 21. (1). If it is proposed to issue any shares or bonds in consideration for labor done or services performed for the corporation, a certificate, signed and sworn to by a majority of the directors and filed in the office of the Secretary of the Commonwealth, shall contain a statement setting forth: **Issue of shares or bonds for labor.**

(a). A specific description of the nature of such labor or services, and the number and par value of the shares, or the number and value of the bonds to be issued therefor.

(b). The name and post office address of the persons to whom such shares or bonds are to be issued, and which of them, if any, are incorporators, officers, directors or stockholders of the corporation.

(2). It shall thereupon be the duty of the Secretary of the Commonwealth to make such investigation as he shall deem necessary, and to issue a certificate specifying the valuation of the labor or services as approved by him, and in no case shall the total par value of the shares, or the value of the bonds, issued therefor, exceed such approved valuation. The valuation as approved shall be conclusive against all persons.

(3). Shares so issued in consideration for the said labor or services shall be deemed to be fully paid, but in all statements and reports of the corporation they shall be stated or reported as issued for labor or services and not as issued for money.

(4). If any corporation shall issue any shares or any bonds in consideration for labor done or services performed in violation of the provisions of this section, such issue shall be void, and a decree of cancellation shall be entered in an action brought by the Attorney-General on behalf of the Commonwealth, and the value of such labor or services shall constitute a claim against the corporation, subject, however, in the case of an illegal issue of stock, to the prior payment of all creditors who have

Act of 1889,
May 9, P. L.
180, Section
1. (Amend-
ing Act of
1874, April
29, P. L. 73,
Section 11.)

* * * All subscriptions to the capital stock shall be paid in such installments and at such times as the directors may require. * * *

Act of 1874,
April 29, P.
L. 73, Section
39, Clause 3.

The president and directors, with the treasurer, and clerk of such company (Clause 18, corporations) shall, after the payment of the last installments of the capital stock, make a certificate stating the amount of the capital so fixed and paid in, which certificate shall be signed and sworn to by the president, treasurer, clerk and the majority of directors, and they shall cause the same to be recorded in the office of the recorder of deeds for said county.

Act of 1889,
May 9, P. L.
180, Section
1. (Amend-
ing Act of
1874, April
29, P. L. 73,
Section 1.)

* * * If default be made in any payment (assessment on shares) the person or persons in default shall be liable to pay, in addition to the amount so called for and unpaid, at the rate of one-half of one percentum per month for the delay of such payment, and the directors may cause suit to be brought for the recovery of the amount due, together with the penalty of one-half of one percentum per month as aforesaid, or the directors may cause the stock to be sold in the manner provided in Clause 2 of Section 39 of this Act. (Act of 1874, *infra*.)

extended credit to the corporation on the faith of such issue. The directors under whose administration such illegal issue of stock is made, except those dissenting thereto, who shall have caused their dissent to be filed with the secretary of the corporation at the time, or who being absent, shall have caused their dissent to be so filed upon learning of such action, shall be jointly and severally liable to any creditor for any loss or damage caused by such issue.²

Issue of
shares or
bonds for
labor
(Continued).

²See note to Section 20. A great majority of States allow the issue of stock for labor or services. It is not permitted in the District of Columbia, Kansas, New Jersey, New Mexico, Oregon, Tennessee, and apparently not in Connecticut.

If the Act is to go into force at once, the same changes are suggested as recommended in the concluding part of the note to Section 20, *supra*.

Section 22. All subscriptions to the capital stock shall be paid in such installments and at such times as the directors may require.³

Assessments
on Shares.

³The section as approved expresses the present law, except that it does not embody the provisions of the Act of 1874 in relation to clause 18 corporations, requiring a certificate to be recorded in the office of the recorder of deeds when the last installment is paid. The use of this provision is not manifest, in view of the reports which are required to be made to the Secretary of the Commonwealth. See section 47, *infra*. If it is desirable to retain the provision it should apply to every payment made on capital stock.

Section 23 (1). If the owner of any share or shares shall fail to pay any assessment due thereon, he shall be liable to pay in addition to the amount due and unpaid, at the rate of one-half of one percentum per month for the delay of such payment, and the directors may cause suit to be brought for the recovery of the amount due and unpaid, together with the penalty of one-half of one percentum per month as aforesaid, or they may direct a sale as herein provided.

Default in
payment.

(2). If the owner of any shares shall for thirty days after the time appointed for payment, fail to pay any assessment due thereon, the board of directors may di-

Act of 1874,
April 9, P. L.
73, Section
39, Clause 2.

Every such corporation (in the Act of 1874 this only applied to Clause 18, corporations, but by the Act of 1889, May 9, 180, supra, the provision is extended so as to apply to all corporations). If the proprietor of any share neglect to pay a sum duly assessed thereon, for the space of thirty days after the time appointed for payment, the treasurer of the company may sell by public auction a sufficient number of the shares to pay all assessments then due, with necessary incidental charges thereon. The treasurer shall give notice of the time and place appointed for such sale and of the sum on each share, by advertising the same three weeks successively before the sale in some newspaper published in said county; and a deed of the shares so sold made by the treasurer and acknowledged before a justice of the peace, and recorded by the clerk, who shall transfer said shares to the purchaser, who shall be entitled to a certificate therefor.

rect the treasurer of the corporation to sell at public auction a sufficient number of shares of such delinquent owner to pay all assessments then due from him with necessary and incidental charges thereon. [The treasurer shall give notice of the time and place appointed for such sale, and of the amount due on each share to such delinquent owner personally, or by mail directed to him at his address as it appears on the books of the corporation, at least three weeks before the time appointed for the sale.]⁴ The treasurer shall also advertise such notice three weeks successively before the day appointed for the sale in some newspaper published in the county in which the sale is to take place. The treasurer shall transfer the shares sold to the purchaser, who shall be entitled to a certificate therefor.

Default in
payment
(Continued).

*This requirement for private notice is in addition to the requirements of the present law. It is submitted that if a person's property is to be sold, and the person selling it—the corporation—has his address on its books, a written notice of the sale should be given to the person whose property interest is to be affected.

(3). [If a sufficient amount shall not be paid at such sale to pay all assessments due, with necessary and incidental charges, the treasurer may refuse to sell the shares, and the board of directors may declare them to be forfeited to the corporation, together with all previous payments thereon. The said shares, if forfeited, may be reissued, or subscriptions therefor may be received, as in the case of shares not issued or subscribed for; but as long as the said shares remain the property of the corporation, the previous owner thereof shall, notwithstanding the forfeiture, remain liable to the creditors of the corporation for an amount equal to the amount unpaid on the said shares in the same manner as if he were still the owner thereof.]⁵

*Forfeiture of the stock and all previous payments thereon is added to provide for a case in which the stock cannot be sold for a sufficient amount. The same provision appears in the statutes of Delaware, Massachusetts, Maryland, Virginia and Kentucky. In six other States and the District of Columbia, the stock and all previous payments thereon may be forfeited at once for non-payment, no provision being made for sale.

If forfeiture is to be added to the present rights of the company, the provision in sub-section 3—that as long as the shares remain the property of the corporation the previous owner thereof shall be liable to the creditors—seems necessary to

Act of 1874,
April 29, P.
L. 73, Section
16.

Every corporation created under the provisions of this Act, or accepting its provisions, may, with the consent of the majority in interest of its stockholders, obtained at a meeting to be called for that purpose, of which public notice shall be given during thirty days in a newspaper of the proper county, issue preferred stock of the corporation, the holders of which preferred stock shall be entitled to receive such dividends thereon as the board of directors of such corporation may prescribe, payable only out of the net earnings of the corporation.

Act of 1873,
April 28, P.
L. 79. (This
amends the
Act of 1872,
April 3, P. L.
77. The Act
of 1872 was
repealed by
the Act of
1874, supra.
Whether, in
view of that
repeal, this
Act is in
force, may be
considered
doubtful.)

Any company authorized by the Act to which this is a supplement, to issue preferred stock, may issue the same in different classes, to be distinguished in such manner as the directors of such company may prescribe; and they may give to the various classes such order of preference in the payment of the dividends, or in the rate of dividends thereon, or in the redemption of the principal thereof, as may be approved by the holders of a majority of the stock of the company; and the company shall have the right to redeem its preferred stock upon such terms as shall be prescribed in the issue thereof; and it may specifically appropriate for the payment of the dividends upon any class of stock, or for the redemption of the principal thereof, the revenues from any specific department of its business or the proceeds of any specified portions of its assets or property: Provided, That no injustice shall thereby be done to the existing rights of any other stockholder or creditors of the company.

Act of 1876,
April 17, P.
L. 30, Section
4. (Amend-
ing Act of
1874, April
29, P. L. 73,
Section 17.)

Every such corporation (all business corporations created under Act of 1874) may provide for the issue of deferred stock in payment for such real or personal estate or mineral rights, and if so provided, it shall be expressly stated in the charter filed or in a certificate to be made and recorded, or in the acceptance of this

protect forfeiture from being used by the corporation in col-
 lusion with the stockholder, to enable the stockholder to avoid Default in
 his liability. The provision does not appear in any American payment
 statute but is practically embodied in the English Companies (Continued).
 Act, being one of the provisions in the fixed by-laws appended
 to that Act, which are binding unless further by-laws are
 adopted and registered.

Section 24. (1). Any corporation may be authorized to Preferred
 issue preferred stock by so providing in its articles of stock.
 incorporation. If it is proposed to issue preferred stock
 after incorporation, the provisions of sections 11 and 12
 in relation to an increase of capital stock shall be fol-
 lowed.

(2). Holders of such preferred stock shall be entitled
 to receive such dividends thereon as the articles of in-
 corporation or articles of amendment thereof may pro-
 vide, or, in the absence of any provision in said articles,
 as the board of directors may prescribe at the time of
 the issuance of such stock, but such dividends shall be
 payable only out of the net earnings of the corporation.⁶

⁶The section as submitted follows the Act of 1874, section 16
 (see Present Legislation), except that the power of the board
 of directors to fix the dividends, which is unlimited in the
 section referred to, is limited in the suggested section by any
 provision in respect to the rate and character of the dividend
 which may be in the original articles or in an amendment
 thereto. Again, it is provided in the suggested section that the
 classes of stock, with their preferences, shall be stated in the
 articles of incorporation or in an amendment. See note 10,
 section 3 (f).

If the Act of 1873, April 28, P. L. 79, section 1 (see Present
 Legislation) is still in force, it is submitted that its provisions
 are wholly unnecessary, because, if the right to issue preferred
 stock is in the articles of incorporation or an amendment
 thereto, the terms under which the stock may be issued, pro-
 vided the dividends are paid out of net earnings and not out of
 capital, are purely a matter of contract.

Section 25. Any corporation may, by so providing in Deferred
 its articles of incorporation, be authorized to issue stock
 deferred stock in payment for property, subject to the pro-
 visions of section 20; if after incorporation, the issuance
 of such deferred stock shall be authorized by the same
 method as the issuance of preferred stock may be author-

statute, to be filed by any corporation accepting its provisions, with the amount of such deferred stock, and the consideration of the same, and the terms on which the same shall be issued; and the said stock may be made to await payments of dividends thereon until out of the net earnings at least five percentum has been declared and paid upon the other full paid stock of the corporation.

Act of 1874,
April 29, P.
L. 73, Section
39, Clause 1.

Every such corporation (Clause 18, Corporations) * * * may by a vote of three-fourths of the general stockholders, at a meeting duly called for the purpose, issue two kinds of stock, namely: general stock and special stock; the special stock shall at no time exceed two-fifths of the actual capital of the corporation and shall be subject to redemption at par after a fixed time to be stated in the certificates. Holders of such special stock shall be entitled to receive and the corporation shall be bound to pay thereon, a fixed or half-yearly sum or dividend to be expressed in the certificates, not exceeding four percentum, and they shall in no event be liable for the debts of the corporation beyond their stock.

Ibid., Clause
10.

* * * When special stock is created by any corporation under this Act, the general stockholders shall be liable for all debts and contracts until the special stock is fully redeemed.

Act of 1895,
April 24, P.
L. 258.

Any stockholder of any company incorporated under the laws of this Commonwealth, shall be entitled to receive a certificate of the number of shares standing to his, her, or their credit on the books of the corporation, which certificate shall be signed by the president or first vice-president or other officer designated by the board of directors, countersigned by the treasurer, and sealed with the common seal of the corporation. * * *

ized under section 24. The holders of such deferred stock may be made to await payments of dividends thereon until out of the net earnings such dividends shall have been declared and paid upon the other stock of the corporation as the articles of incorporation or the articles of amendment may provide, or, in the absence of such provision, as the directors may prescribe at the time of the issuance of such stock.⁷

Deferred
stock
(Continued).

It will be noted that the provision in regard to special stock (see Present Legislation) is omitted. The provision for special stock, as it appears in the Act of 1874, creates a class of stockholders who have a right, on the payment of the creditors of the corporation, to demand that the remaining property of the corporation be devoted to payment to them of the principal on their investment, together with interest. They therefore practically become deferred creditors with power to vote. There would appear to be nothing useful in the provision which cannot be obtained by a contract among the stockholders.

Section 26. (1). Each stockholder shall be entitled to receive a certificate, signed by the president or vice president or other officer designated by the board of directors, countersigned by the treasurer and sealed with the common seal of the corporation, certifying the number and class of shares owned by him and the par value thereof. [If the shares represented by the certificate are not full paid, such certificate shall have printed or stamped upon its face, in enlarged letters and different colored ink from that used in the body of the certificate, the words "not full paid."]⁸

Certificate of
stock

⁸The suggested provisions in relation to stock that is not full paid are beyond the provisions of the present law.

In Connecticut, Iowa, and New Hampshire, no certificate can be issued until the shares are full paid. In five other States, California, Massachusetts, Nevada, North Dakota, and West Virginia, the certificates must show the amount paid on the shares.

Act of 1905,
March 24, P.
L. 56, Section
1. (Amend-
ing prior
Acts.) * * * No share shall be transferred until all previous calls thereon shall have been fully paid in, or shall have been declared forfeited for the nonpayment of calls thereon.

Act of 1911,
May 5, P. L.
126, Section
15. There shall be no lien in favor of a corporation upon the shares represented by a certificate issued by such corporation, and there shall be no restriction upon the transfer of shares so represented, by virtue of any by-law of such corporation, or otherwise, unless the right of a corporation to such lien or other restriction is stated upon the certificate.

Act of 1895,
June 24, P. L.
258, Section
1. * * * Each certificate or evidence of stock ownership shall be transferable on such books at the pleasure of the holder, in person or by attorney, duly authorized as

In England, under the Companies Act, a different certificate is issued prior to full payment than that issued upon full payment. This follows the Continental system, which in general distinguishes between the certificate which is issued before full payment, and that issued on full payment. Stock paid in full can, as a rule, on the Continent, only be transferred on the books of the company, while the holder of full paid stock can have a certificate, transfer of which by delivery transfers the title to the shares. Certificate of stock.
(Continued).

(2). [If any certificate representing shares not full paid shall be issued without having the words "not full paid" printed or stamped upon it as aforesaid, all directors, officers or agent or agents of the corporation responsible therefor shall be jointly and severally liable to the corporation for an amount equal to the amount remaining unpaid on the shares represented by the certificate so issued. If a majority of the directors shall refuse or neglect, for sixty days after the issuance of said certificate, to bring action in the name of the corporation to enforce the said liability, any director or any stockholder or any judgment creditor of the corporation may maintain such action in the name and on the behalf of the corporation.⁹

⁹By making the directors immediately liable the creditors have a method by which the proper contribution to the capital can be enforced, without altering the present law which protects those who have purchased the stock on the market in ignorance that it was not full paid.

Section 27. No shares of the capital stock shall be transferable until all previous assessments or calls thereon shall have been fully paid: Provided, That this section shall have no effect unless a copy of it shall have been written or printed upon the certificate by which the said shares are represented.¹⁰ Transfer of shares on which assessments are unpaid.

¹⁰The suggested section follows the present law. The Act of 1911, referred to under Present Legislation, is the Uniform Transfer of Stock Act. The Act here suggested in no wise alters or amends the Transfer of Stock Act.

Section 28. (1). [If a copy of Section 27 shall not have been written or printed on the certificate of stock, the transfer of such certificate shall not relieve the transferor Effect of transfer of shares on liability.

the by-laws may prescribe, subject, however, to all payments due or to become due thereon; and the assignee or party to whom the same shall be so transferred shall be a member of said corporation, and have and enjoy all the immunities, privileges, franchises, and be subject to all the liabilities, conditions, and penalties incident thereto, in the same manner as the original subscriber or holder would have been. * * *

from liability to the corporation for any calls or assessments due and payable on the shares represented thereby prior to the date of the said transfer.]¹¹

Effect of
transfer of
shares on lia-
bility
(Continued).

¹¹This sub-section expresses the common law.

(2). [The transferor of any shares shall remain liable for the amount, if any, remaining unpaid on such shares, for the period of one year from the registration of such transfer on the books of the company, under the conditions set forth in Section 38 of this Act: Provided, That the liability of such transferor shall be secondary to that of the person to whom he shall have transferred the said shares.]¹²

¹²The common law rule, which is the law of this State, is that the transferor remains liable until a transfer on the books of the company. The Uniform Transfer of Stock Act (May 5, 1911, P. L. 126) does not affect this rule of the common law. [See Section 3 (b) of Uniform Transfer of Stock Act, under Present Legislation.] It is probable that the Uniform Transfer of Stock Act does make the transferee also directly liable to the company after the indorsement and transfer of the certificate and before transfer on the books, as such indorsement and delivery of the certificate vests the legal title to the stock in the transferee. The suggested sub-section follows the English Companies Act in holding the transferor liable secondarily for one year after transfer. It is based on the theory that where the holder of stock which is not fully paid desires to transfer it, it is impractical to go into questions of the transferee's financial condition at the time of the transfer, and that therefore the transferor should be placed in the position of an insurer of the solvency of the transferee, but that this liability as insurer should have a definite limitation of time. To put the matter in another way, the sub-section is a compromise between the practical necessity of protecting the creditors of the corporation and the desirability of making marketable stock which is not fully paid.

The following is a tabulated statement of existing statutory provisions in the different States affecting the liability of the transferor for unpaid subscriptions after transfer of the stock.

California—Statutory liability [double liability] is not released by the transfer.

Illinois—Transferor is liable jointly with the transferee.

Georgia—Transferor is secondarily liable if the corporation fails within six months after the transfer.

Massachusetts—Original subscriber is secondarily liable.

Oregon—If the sale is voluntary, the "seller is liable to existing creditors . . . unless the same be duly paid by such purchaser."

Tennessee—The subscriber is not relieved from liability "unless his transferee has paid up all or any of the balance due on said original subscription."

**Act of 1911,
May 5, P. L.
126, Sec-
tion 3.** Nothing in this Act shall be construed as forbidding
a corporation—

(a) To recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, or

(b) To hold liable for calls and assessments a person registered on its books as the owner of shares.

Wisconsin—The corporation may discharge the transferor from liability and accept that of the transferee, but the transferor shall be liable "to the then creditors, and those who become such within six months, or to any receiver or assignee for their use." Effect of transfer of shares on liability (Continued).

Idaho—Transferor is liable as to debts incurred while he was a stockholder.

Mississippi—Accord with Idaho, except that the liability continues only for one year after the transfer.

New York—Accord with Idaho, except that there is no liability for a debt not payable within two years, nor unless action is brought within two years after the debt is due.

Maine—The original subscriber is liable for debts contracted during his ownership, but proceedings to obtain judgment against the corporation must be commenced during his ownership, or within one year after transfer.

Nevada and West Virginia—There can be no transfer without the consent of the directors, unless security is given for the amount remaining unpaid on the shares.

South Carolina—The by-laws may give the corporation a lien on stock "for such sum as the stockholder is or may be indebted" on his subscription to stock.

(3). The transferee of any shares shall be a stockholder, and shall be primarily liable for the amount, if any, remaining unpaid on the shares so transferred, under the conditions set forth in section 39 of this Act: Provided, That the said transferee shall not be liable for any calls or assessments which shall have been due and payable prior to the date of the said transfer: And provided further, That notwithstanding the provisions of this section, any corporation

(a). May recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, or

(b). May hold liable for calls and assessments a person registered on its books as the owner of shares.¹³

¹³The Uniform Transfer of Stock Act (May 5, 1911, P. L. 126) provides that title to shares can only be transferred by delivery of the certificate properly endorsed or by delivery of the certificate and a separate document containing a written assignment. Transfer on the books does not effect a transfer of title to the shares. The words "transferor" and "transferee" in this section should be read in the light of the Uniform Transfer of Stock Act. It has been thought unnecessary to suggest the re-adoption of that Act as a part of this Act. It has, however, been necessary to place in this Act certain sections which may appear to be repetitions of certain sections of the Stock

Act of 1847, * * * Each of the banks, savings institutions, loan com-
 March 6, P. panies and insurance companies, and each and every other
 L. 222, Sec- of the companies, institutions or associations incorpo-
 tion 1. rated by or under any law of this Commonwealth, and
 legally authorized to declare and make dividends of
 profits amongst the stockholders thereof, shall, in the
 month of December of the present year, and annually
 thereafter, cause to be published, for four successive
 weeks, in one or more public newspapers, having the lar-
 gest circulation, printed in the city or county in which
 such bank, savings institution, loan company, insurance
 company, or other company, institution or association may
 be located, or in which its principal office or place of bus-
 iness may be situated, a true and accurate statement, veri-
 fied by the oath or affirmation of the cashier or treasurer
 thereof, of all dividends or profits declared on its capital
 stock, which at the date of such settlement, shall have re-
 mained unclaimed by the person, co-partnership or cor-
 poration authorized to receive the same, for the period of
 three years then next preceeding; which said statement
 shall set forth the names, and, if known, the residence and
 business of the persons, co-partnerships or corporations in
 whose favor said dividends or profits may have been de-
 clared, the amount of such dividends or profits, and the
 number of shares in the capital stock upon which the
 same had accrued.

1847, March At the expiration of three years after the first publi-
 6, P. L. 222, cation of any particular dividend or profits, balance or
 Section 4. deposit, with the interest that has accrued thereon, as
 provided for by the first and second sections of this Act,
 such dividend or profit, balance or deposit, with the in-
 terest that has accrued, if not demanded within that time
 by the rightful owner or owners thereof, or their legal
 representatives, shall escheat to the Commonwealth, and
 shall be paid into the treasury thereof without discount
 or deduction, for commissions, fees or expenses of any
 description by the cashier, treasurer or other proper offi-

Transfer Act, but which, in reality, are necessary to complete this Act and make it consistent with that Act. Thus Section 3 of the Transfer of Stock Act provides that "nothing in this Act shall be construed as forbidding a corporation to recognize," &c., while sub-section 3, *supra*, as suggested, affirmatively gives these rights to the corporation.

Effect of
transfer of
shares on
liability.
(Continued).

Section 29. (1). Every corporation shall, annually, in the month of December, cause to be published for four successive weeks in one or more newspapers published in the county in which the principal office of such corporation is located, a true and accurate statement, verified by the treasurer thereof, of all dividends declared on its capital stock which, at the date of such publication, shall have remained unclaimed for a period of three years next preceding by the persons authorized to receive the same. The said statement shall set forth the names, and if known, the residence and business of the persons authorized to receive the said dividends, the amount of the dividends and the number of shares of capital stock upon which the same has accrued. The expenses of the publication shall be paid out of the dividend so published.

Unclaimed
dividends.

(2). At the expiration of three years after the first publication of any particular dividend, such dividend, with the interest that shall have accrued thereon, if not demanded within that time by the rightful owner or owners thereof, or their legal representatives, shall escheat to the state, and shall be paid into the treasury without discount or reduction for commissions, fees or expenses of any description, except the expenses of publication by such corporation. The said corporation shall thereupon be discharged from any obligation or liability to pay over such dividend to the owner or owners thereof.

(3). Such owner or owners upon application to the State Treasurer, and upon producing satisfactory proof to that officer of his, her, or their right to such dividend, with the accrued interest thereon, or any part thereof, shall receive from the State the amount he, she or they shall be found legally or equitably entitled to.

cer of said bank, savings institution, loan company, insurance company, saving fund society or other company, institution or association, in which dividend or profit, balance or deposit shall have remained without being demanded as aforesaid, or without being increased or diminished for the length of time aforesaid; and the said bank, savings institution, loan company, insurance company, saving fund society, or other company, institution, or association, as the case may be, shall thereupon be discharged from any obligation or liability to pay over such dividend or profit, balance or deposit, or interest thereon, to the owner or owners thereof, that the said owner or owners, or their legal representatives, upon application to the State Treasurer, for the time being and producing satisfactory proof to that officer of his, her or their right to such dividend or profit, balance or deposit, with the interest thereon, paid into the treasury as aforesaid, or any part thereof, shall receive from the Commonwealth the amount he, she or they shall be found legally or equitably entitled to: Provided, That the expense of the publication or publications required by this Act shall be paid out of such dividend or profit, balance or deposit so published.

Act of 1893,
P. L. 355,
Section 1.

It shall be lawful for any corporation of this State, now existing or hereafter created, to change * * * the place of its annual and other meetings of the stockholders, or the time for holding such annual meetings, or either or all, by resolution of its board of directors, adopted by a two-thirds vote thereof, approved at any annual meeting or special meeting duly called of the stockholders, by a two-thirds vote thereof. Upon such approval of the stockholders, it shall be the duty of the president of such corporation to file in both the offices of the Secretary of the Commonwealth and the Auditor-General of the Commonwealth, a report, under the seal of the company specifying the change or changes so made. Nothing in this Act, however, shall authorize the holding of the annual or other meetings of the stockholders outside the limits of this Commonwealth. (It is not certain whether this Act repeals the Act of 1865, November 27, P. L. (1866) 1228, which provides: "in all cases where any company has been incorporated, under the laws of this State, and a majority of the directors, corporators or stockholders thereof, are citizens of any other State, said corporation may be organized and all the meetings of such corporators, directors or stockholders, held in such place, whether in this State, or elsewhere, as such majority may, from time to time appoint: Provided, however, That the annual election, for officers of such corporation, shall be held in the State of Pennsylvania at such time and place and upon such notice, by publication, in the newspapers of this State, as the by-laws of such corporation may, from time to time determine.)

PART V.

STOCKHOLDERS.

Section 30. A regular meeting of the stockholders of every corporation shall be held annually within this Commonwealth at such time and place as shall be prescribed in the by-laws. The meeting shall be held upon such notice as the by-laws shall provide; in the absence of such provision, upon ten days' notice. No notice of the time, place or purpose of any regular or special meeting of the stockholders shall be required if every stockholder shall waive such notice by a writing filed with the records of the meeting.¹ Annual stockholders' meeting.

¹This section in general is believed to represent the present law. Even if the Act of 1865 is still in force, the meeting at which there is an election for directors must be held within the State.

Should the section be adopted, while the by-laws would, as at present, prescribe the notice to be given, it is submitted that it is better to indicate exactly the length of time before the meeting when the notice must be given, in the absence of any such provision in the by-laws. The provision in regard to waiving notice expresses the common law.

Section 31. [Special meetings of the stockholders of any corporation may be called by the president or by the board of directors, and shall be called by the secretary of the corporation, upon the application, stating the time and place of such meeting, of one or more stockholders, Special meetings of stockholders.]

Act of 1874,
April 29, P.
L. 73, Sec-
tion 6.

This Act is identical with the suggested section.

Act of 1876,
April 25, P.
L. 47.

* * * All elections for directors or trustees shall be by ballot, and every share of stock shall entitle the holder thereof to one vote, in person or by proxy, to be exercised as provided in this section.

Act of 1889,
May 9, P. L.
180, Section
1. (Amend-
ing Act of
1874, April
29, P. L. 73,
Section 11.)

* * * No stockholder shall be entitled to vote at any election, or at any meeting of stockholders, on whose share or shares any installments or arrearages may have been due and unpaid for the period of thirty days immediately preceding such election or meeting.

Act of 1893,
May 26, P. L.
141, Section
1. (Amend-
ing Act of
1889, May 7,
P. L. 102.)

The certificate of stock and transfer books, or either, of any corporation of this Commonwealth, shall be prima facie evidence of the right of the person named therein to vote thereon as the owner either in person or by

who hold at least one-tenth in interest of the capital stock. Notice of the time, place and purpose of all special meetings shall be given at least ten days before the date appointed for such meeting.]²

Special meetings of stockholders.
(Continued).

²There is no provision in the present statutory law with reference to special meetings. That some provision should exist seems manifest. The statutes of twenty-four States contain such provisions: Alabama, Colorado, Connecticut, Florida, Idaho, Illinois, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Rhode Island, South Carolina, South Dakota, Utah, Virginia, West Virginia.

Twenty-three of these provide for the calling of such meetings by stockholders if the proper officers refuse. In ten, application must be made by shareholders to a justice of the peace, who issues a warrant. Expressions in regard to the desirability of this provision are requested. It is omitted from the section as drafted because of the belief that the right to mandamus the secretary to call such a meeting when the holders of the requisite part in interest of the capital stock make the proper application, is adequate.

Section 32. Every corporation may determine by its by-laws what number of stockholders shall attend, either in person or by proxy, or what number of shares or amount of interest shall be represented at any meeting, to constitute a quorum; if the quorum is not so determined, a majority in interest of the stockholders shall constitute a quorum. Quorum.

Section 33. (1). Each stockholder, except as herein after provided, shall at every stockholders' meeting be entitled to one vote, in person or by proxy, for each share of the capital stock, whether preferred or otherwise, held by him. Right to vote.

(2). No stockholder shall be entitled to vote at any meeting of the stockholders, on whose share or shares any calls or assessments shall have been due and unpaid for the period of thirty days immediately preceding the meeting.

(3). [At all meetings of the stockholders, the stock-books shall be conclusive evidence of the right of the person named therein as the owner of shares to vote thereon]³: Provided,

proxy. If, however, objection is taken by an actual stockholder at the time the ballot is tendered, accompanied by a written statement under oath that the person in whose name the stock stands on such certificate, or transfer books, and who is offering to vote thereon, either in person or by proxy, is not the owner thereof, either in his own right or as active trustee with the character of his trusteeship disclosed on the face of such certificate, or transfer books, in connection with his name, it shall be the duty of the judges of election to inquire and determine summarily whether the facts are as represented in such statement, and if so, the vote or votes so tendered shall be rejected. * * *

Act of 1867,
April 15, P.
L. 81.

From and after the passage of this Act no stockholder shall be allowed to cast his vote for the election of any officer or officers of any oil or other mining company, incorporated by the laws of this Commonwealth, unless such stockholder shall produce his certificate of stock, with power of attorney, properly stamped, or such other satisfactory evidence that he, she, or they, are bona fide the owners of such stock to be so voted, as the secretary and other officers of the said company may require.

Act of 1901,
Feb. 9, P. L.
3. Section 2
(B).

* * * Each ballot shall have endorsed thereon the number of shares thereby represented, but no share or shares transferred within sixty days shall entitle the holder or holders thereof to vote at such election or meeting. * * *

Act of 1893,
May 26, P. L.
141, Section
3.

As between the pledgor and pledgee of capital stock pledged to secure a specific loan with a fixed period or periods of maturity, the right to vote shall be determined as follows: First: By the written agreement of the pledgor and pledgee. Second. In all other instances the pledgor shall be held to be the owner and entitled to the right to vote.

Act of 1905,
March 16, P.
L. 42, Section
1.

From and after the passage of this Act, executors, administrators, guardians, and trustees, whether created by last will and testament or by decree of the proper court, shall have the same right and power, either in person or by proxy, at all corporate meetings, to vote any and all shares of stock, by them held in such judiciary capacity, in any corporation in this Commonwealth, or or-

(a). That as between the pledgor and pledgee of shares of the capital stock, the pledgor shall have the right to vote thereon, unless the written agreement between the pledgor and pledgee expressly empowers the pledgee to vote on the said shares;

Right to vote
(Continued).

(b). That executors, administrators, guardians and trustees, whether created by last will and testament or by decree of the proper court, shall have the same right and power, at all corporate meetings, to vote on any shares of stock held by them in such fiduciary capacity, as the decedent or legal owner thereof had in his lifetime or during his legal ownership thereof. If any shares are so held by more than two such executors, administrators, guardians or trustees, the right to vote on the said shares shall be vested in a majority of such executors, administrators, guardians or trustees.

²This sub-section changes the present law in that it makes the stock books conclusive evidence of the right of a person named therein to vote. In view of the fact that the Uniform Stock Transfer Act vests the legal title in the transferee of the certificate, it is important to have it finally determined whether the certificate or the stock book shall control in respect to the right to vote. As the holder of the certificate can always have the stock transferred on the books, and as, for the protection of the corporation, it has been given the right to treat the holder of record as the person entitled to vote [see section 28, *supra*, and also the Uniform Stock Transfer Act, May 5, 1911, P. L. 126, section 3] it is submitted that the stock books should be made conclusive evidence of the persons entitled to vote.

(4). Nothing herein shall be held to prevent a corporation from prescribing in its by-laws a period, not exceeding thirty days immediately preceding any regular annual meeting of the stockholders, during which the books of the corporation may be declared closed, and no transfer of stock made thereon.

ganized under the laws of the same, as the deceased, or legal owner thereof, had in his lifetime or during his legal ownership thereof. And where such stock is certified or stands on the books of such corporation in the name of, or has passed by the operation of law or by virtue of any last will and testament to, more than two of such executors, administrators, guardians, or trustees, and dispute shall have arisen among them, the said shares of stock shall be voted by a majority of such executors, administrators, guardians, or trustees, and in such manner and for such purposes as such majority shall authorize, direct or desire the same to be voted.

Act of 1876,
April 25, P.
L. 47. (Sup-
plementary to
the Act of
1874, April
29, P. L. 73.)

In all elections for directors, managers, or trustees of any corporation, created under the provisions of this statute, or accepting its provisions, each member or stockholder or other person having a right to vote may cast the whole number of his votes for one candidate, or distribute them among two or more candidates as he may prefer, that is to say; if the said member or stockholder or other person having a right to vote own one share of stock or has one vote, or is entitled to one vote for each of six directors by virtue thereof, he may give one vote to each of said six directors or six votes for any one thereof, or a less number of votes for a less number of directors whatever may be the actual number to be elected, and in this manner may distribute or cumulate his votes as he may see fit * * *

Act of 1903,
March 5, P.
L. 14, Section
1.

Stockholders of all corporations of this Commonwealth, wherever residing, who shall be entitled to vote at any corporate meeting or election thereof, shall have and be possessed of all the right and power to vote thereat by proxy duly executed by the stockholders either with or without notarial or other acknowledgment, but properly attested by the signature of a witness, and that one person may be constituted and act as proxy for any number of stockholders: Provided, however, That proxies dated more than two months prior to any such meeting or election shall not confer the right to vote thereat.

Section 34. All elections for directors shall be by ballot and each stockholder shall be entitled to as many votes as shall equal the number of shares held by him, multiplied by the number of directors to be elected, and he may cast all such votes for a single director, or may distribute them among the number to be voted for, or any two or more of them, as he may see fit. Cumulative voting at elections for directors.

Section 35. Each stockholder of a corporation who shall be entitled to vote at any corporate meeting thereof shall have the right to vote thereat by proxy, duly executed by the said stockholder, either with or without notarial or other acknowledgment, but properly attested by the signature of one witness: Provided, however, that proxies dated more than two months prior to any corporate meeting shall not confer the right to vote thereat.⁴ Proxies.

⁴This section expresses the present law. There would seem to be no real necessity for sub-section 2. The provision in Present Legislation that one person may be constituted and act as proxy for any number has been omitted as unnecessary.

Act of 1903,
March 24, P.
L. 50.

Whenever a stock vote is duly demanded or required, on any subject submitted to the stockholders of any corporation of this Commonwealth for their action, at any annual or special meeting, such vote may be taken at and certified to such meeting, or any adjournment thereof; or, if the annual election for directors shall, under the provisions of the charter or laws governing such corporation, be held at a time which shall be within thirty days after the annual or special meeting at which such subject shall be submitted to the stockholders, then the vote on such subject may be taken at the same time and place, by the same persons, and in the same manner as the vote for directors or managers of such corporation shall be taken; or, if under the provisions of the charter or laws governing such corporations, the annual election for directors or managers thereof shall not be held at a time which shall be within thirty days after the meeting at which such subject shall be submitted to the stockholders, then the stock vote upon such subject may be taken at any time within thirty days after such meeting, by three judges to be appointed, and at a time and place to be designated by the stockholders at said meeting, and the result of the vote shall be certified by the judges under oath or affirmation, and their certificates shall be filed with the secretary of the corporation.

Act of 1901,
Feb. 9, P. L.
3, Section 2
(B).

* * * At such meeting thus called [a meeting to increase the capital stock] or any adjournment thereof, an election of the stockholders shall be taken for or against such increase, which shall be conducted by three judges, stockholders of such corporation, appointed by the board of directors to hold said election, and if one or more of said judges be absent the judge or judges present shall appoint a judge or judges who shall act in the place of the judge or judges absent; and said judges shall respectively take and subscribe an oath or affirmation before an officer authorized by law to administer the same, well and truly according to law to conduct such election to the best of their ability.

Act of 1874,
April 29, P.
L. 73, Section
8.

No person acting as judge or officer holding an election for any corporation, shall enter on the duties of his office or appointment until he shall take and subscribe an oath or affirmation before a judge, alderman,

Section 36. (1). In all elections for directors and in all other cases where a stock vote is duly required or demanded on any subject submitted to the stockholders of any corporation at any annual or special meeting, the said stock vote shall be taken by three judges appointed by the directors. If one or more of said judges be absent the judge or judges present shall appoint a judge or judges who shall act in the place of the judge or judges absent. If the directors shall fail to appoint such judges, they shall be elected by the stockholders at the said meeting.⁵ The said judges shall respectively take and subscribe an oath or affirmation before an officer authorized by law to administer the same, that they will conduct such election or stock vote well and truly according to law. If any such judge shall, knowingly and wilfully, violate his oath or affirmation, he shall be subject to all the penalties imposed by law upon the officers of the general election of this Commonwealth who violate their duties, and shall be proceeded against in like manner and with like effect. The result of the election or stock vote shall be certified by the judges under oath or affirmation, and their certificate shall be filed with the secretary of the corporation.

Procedure
when stock
vote required
or de-
manded.

⁵This sentence is added to the section as it appeared in the first draft to provide for election of judges by stockholders in default of appointment by the directors.

(2). If any election for director or officers shall be invalid for any reason, such election shall be set aside in the manner now provided by law, and a new election ordered by the Court of Common Pleas of the county in which said election shall have been held, upon the petition of not less than five stockholders, supported by proof satisfactory to the court.

justice of the peace, or other person qualified by law to administer oaths, that he will discharge the duties of his office or appointment with fidelity, that he will not receive any vote but such as he verily believes to be legal; and if any such judge or officer shall, knowingly and wilfully, violate his oath or affirmation, he shall be subject to all the penalties imposed by law upon the officers of the general election of this Commonwealth violating their duties, and shall be proceeded against in like manner, and with like effect; and if any election, as aforesaid, be held without the person holding the same having first taken an oath or affirmation, as aforesaid, or be invalid for any other reason, such election shall be set aside in the manner now provided by law, and a new election ordered by the court of common pleas of the proper county, upon petition of not less than five stockholders supported by proof satisfactory to said court.

Act of 1891,
P. L. 61.
(Amending
Section 5 of
the Act of
1874, April
29, P. L. 73.)

The by-laws of every corporation created under the provisions of this statute, or accepting the same, shall be deemed and taken to be its law, subordinate to this statute, the charter of the same, the Constitution and laws of this Commonwealth, and the Constitution of the United States. They shall be made by the stockholders or members of the corporation at a general meeting called for that purpose, unless the charter prescribes another body or a different mode. They shall prescribe the time and place of meeting of the corporation, the powers and duties of its officials, and such other matters as may be pertinent and necessary for the business to be transacted, and may contain penalties for the breach thereof not exceeding twenty dollars.

Existing statutory law does not deal with this liability.

Section 37. (1). The by-laws of a corporation shall pre- **By-laws.**
scribe the time and place of corporate meetings, the powers and duties of the corporate officials, and such other matters as may be pertinent and necessary for the business to be transacted. The by-laws may contain penalties for the breach thereof, not exceeding twenty dollars.

(2). The power to make and alter by-laws shall be in the stockholders, but any corporation may in its articles of incorporation or in articles of amendment thereto confer that power upon the directors. By-laws made by the directors under the power so conferred may be altered or repealed by the stockholders.

(3). The by-laws of every corporation shall be deemed and taken to be its law, subordinate to its articles of incorporation, this statute, the Constitution and laws of this Commonwealth, and the Constitution of the United States.⁶

⁶The difference between the section as suggested and the present law is of form rather than substance. In the present law there is no specific declaration that by-laws made by the directors may be altered by the stockholders. Sub-section 2, as worded, is taken from the New Jersey Act.

Section 38. (1). [If the assets of any corporation shall be insufficient to satisfy the claims of its creditors, each **Liability of stockholders for unpaid subscriptions.**

stockholder shall be liable to pay on each share held by him the sum, if any, necessary to complete the amount of the par value of such share, or such proportion of that sum as shall be required to satisfy the said claims.]⁷

Liability of
stockholders
for unpaid
subscriptions
(Continued).

⁷The requirement is substantially the requirement of the New Jersey and Delaware statutes.

(2). [For the purpose of determining those who shall be subject to the aforesaid liability, the term "stockholder" shall include not only the holder in fact of shares as represented by the stock certificate, but also any person who may be registered on the books of the company as the owner of shares. A person who shall have been so registered on the books of the corporation within a period of one year shall be subject to the same liability to the extent prescribed in Section 28.]⁸

⁸This sub-section becomes necessary because of the Uniform Transfer of the Stock Act (Act of 1911, May 5, P. L., 126), the holder in fact as represented by the certificate of stock not necessarily appearing upon the books.

See also note to section 28 (2), *supra*.

(3). [Nothing in this section shall be construed as making liable a person who in good faith shall have purchased shares represented by a certificate not marked "not full paid," in ignorance of the fact that such shares have not been fully paid. But any person who shall have purchased shares represented by a certificate marked "not full paid" shall not be relieved from liability for the full amount in fact unpaid on such shares by any representations which may have been made by any director, officer or agent of the corporation prior to or at the time of the said purchase.]⁹

⁹The first part of this sub-section, of course, represents the present law. *Finletter vs. Appleton*, 195 Pa. 349 (1900). The last provision is perhaps a change in the present law. It is submitted, however, that a person who purchases stock with knowledge that it is not full paid should be liable to creditors for the full amount in fact unpaid on the shares, regardless of any representations which may have been made by the corporate officers as to the amount remaining unpaid. Full protection would thus be given to creditors, and the purchaser would have an action against the person who made the false representation.

(4). [The liability prescribed in this section shall be enforced only by a receiver appointed by a court of

Act of 1876,
April 17, P.
L. 30, Section
3. (Amend-
ing Act of
1879, April
29, P. L. 73,
Section 14.) The stockholders in each of said corporations (all corporations formed under the Act of 1874) shall be liable, in their individual capacity, to the amount of stock held by each of them, for all work or labor done to carry on the operations of each of said corporations. * * *

Act of 1874
April 29, P.
L. 73, Section
39, Clause 11. The stockholders of any and all corporations under this Act, shall be personally liable for all sums of money due to laborers, clerks and operatives for services rendered within six months before demand made upon the corporation, and its neglect and refusal to make payment; and when judgment is obtained against any corporation for wages or labor due to an amount not exceeding \$200 said corporation shall not be entitled to stay of execution. (This section in spite of the general wording of the clause applies apparently only to Clause 18, Corporations.)

Act of 1889,
April 17, P.
L. 37, Section
2. (Applies
only to ship-
building cor-
porations.) * * * And the holders of stock so full paid shall not be liable in their individual capacity for any debts of the corporation, except for debts due laborers, mechanics or clerks for services rendered while in the employ of the

equity upon a bill brought by any creditor or creditors or by any stockholder or stockholders: Provided, That nothing herein shall prevent a judgment creditor of the corporation from attaching, as other debts due the corporation may be attached, any debt due for calls or assessments duly made by the directors.¹⁰

Liability of
stockholders
for unpaid
subscriptions
(Continued).

¹⁰Under the present law there is considerable confusion as to the proper method of enforcing liability for unpaid subscriptions. It has been stated that the proper method is a bill in equity brought against the corporation and the stockholders by a judgment creditor on behalf of all other creditors who may join. Lane's Appeal, 105 Pa. 49 (1884); but for a case in which all the creditors were not joined as plaintiff, nor all the delinquent stockholders made defendants, see Cornell's Appeal, 114 Pa. 153 (1886). It is submitted that the remedy of the creditors should be clear and definite, and that the only proper method when the corporation has insufficient property to meet its liabilities is to give to the creditors the right to have a receiver appointed, who, under the supervision of the court, can proceed against the stockholders and distribute the funds ratably among the creditors.

The word "judgment" is omitted from the third line of subsection (4) in this draft in order to give any creditor the right to have a receiver appointed.

Section 39. (1). The stockholders of every corporation shall be personally liable for all sums of money due to laborers, clerks and operatives, for services rendered within six months before demand made upon the corporation, and its neglect or refusal to make payment, which liability shall be enforced as herein provided.

Individual
liability of
stockholders
for work and
labor.

(2). No stockholder shall be personally liable as aforesaid unless suit for the collection of the debt due to such laborer, clerk or operative shall be brought against such stockholder within six months after such debt shall have become due.

(3). In any action or bill of equity brought against the corporation to enforce any liability due to any laborer, clerk or operative, the plaintiff may include as defendants any one or more of the stockholders of such corporation claimed to be liable therefor, and if judgment be given in favor of the plaintiff for his claim, or any part thereof, and any one or more of the stockholders so made defendants, shall be found to be liable, judgment shall be given against him or them.

corporation, and in that case for no period exceeding six months.

Act of 1874,
April 29, P.
L. 73, Section
38, Clause 8.

(Iron and steel corporations.)

The stockholders of every company incorporated for the purposes named in this section shall only be individually liable for debts due to the laborers, mechanics or clerks, for services and in that case for no period exceeding six months.

Act of 1874,
April 29, P.
L. 73, Section
15.

In any action or bill in equity brought to enforce any liability under the provisions of this Act (this includes liability of stockholders to laborers, clerks, etc.) the plaintiff may include as defendants any one or more of the stockholders of such corporation claimed to be liable therefor; and if judgment be given in favor of the plaintiff for his claim, or any part thereof, and any one or more of the stockholders so made defendants, shall be found to be liable, judgment shall be given against him or them. The execution upon such judgment shall be first levied on the property of such corporation, if to be found in the county where the chief business of the corporation is carried on, and in case such property, sufficient to satisfy the same, cannot be found in said county, the deficiency, or so much thereof as the stockholder or stockholders, defendants in such judgment, shall be liable to pay, shall be collected of the property of such stockholder or stockholders; on the payment of any judgment as aforesaid, or any part thereof, by one or more stockholders, the stockholder or stockholders so paying the same shall be entitled to have such judgment, or so much thereof as may have been paid by him or them, assigned to him or them for his or their benefit, with power to enforce the same in manner aforesaid; first against the company, and in case the amount so paid by him or them, shall not be collected of the property of the corporation, then ratably against the other solvent stockholders, if any such there be, originally liable for the claim on which such judgment was obtained; but no stockholder shall be personally liable for payment of any debt contracted by any such corporation, unless suit for the collection of the same shall be brought against any such stockholder or stockholders within six months after such debt shall have become due.

(4). The execution upon such judgment shall be first levied on the property of such corporation, if to be found in the county where the principal office of the corporation shall be located, and in case such property, sufficient to satisfy the same, cannot be found in such county, the deficiency, or so much thereof as the stockholder or stockholders, defendants in such judgment, shall be liable to pay, shall be collected from the property of such stockholder or stockholders.

Individual
liability of
stockholders
for work and
labor.
(Continued).

(5). On the payment of any judgment as aforesaid, or any part thereof, by one or more stockholders, the stockholder or stockholders so paying the same shall be entitled to have such judgment, or so much thereof as may have been paid by him or them, assigned to him or them for his or their benefit, with power to enforce the same in the manner aforesaid, first against the corporation, and in case the amount so paid by him or them shall not be collected from the property of the corporation, then ratably against the other solvent stockholders, if any, originally liable for the claim on which such judgment was obtained.¹¹

¹¹This section expresses the present law as applied to clause 18 corporations. The liability must be enforced in the manner prescribed in the statute. *Katch vs. Coal Company*, 19 Pa. Sup. 476 (1902). The tendency of modern legislation is to do away with all liability on stockholders except the common law liability for unpaid subscription. The statutes of ten States contain a similar provision.

Act of 1901,
April 19, P.
L. 80, Section
1.

In all corporations heretofore or hereafter incorporated under the laws of this Commonwealth * * * the board of directors may consist of any number of persons not less than three. The number of directors may be increased or diminished from time to time by the stockholders of any such corporations, at any regular annual meeting or any special meeting called for that purpose, of which notice shall be given as required by the by-laws, and it shall be lawful for any such corporation, by its by-laws, to authorize the board of directors to increase or decrease the number of directors from time to time without the vote of the stockholders.

Act of 1887,
May 31, P.
L. 281, Sec-
tion 2.

(This Act covers the same ground as the Act of 1901, April 19, P. L. 80, but it contains an additional proviso which is not included in the later Act, and may therefore be in force. The proviso is as follows:

“At least one-third of the directors of every corporation shall be and remain, during their term of service, residents of the State of Pennsylvania.”)

Act of 1891,
May 14, P. L.
61. (Amend-
ing Act of
1874, April
29, P. L. 73,
Section 5.)

* * * The business of every corporation created here-
under, or accepting the same, shall be managed and con-
ducted by a president, a board of directors or trustees,
a secretary or clerk, a treasurer and such other officers,
agents and factors as the corporation authorizes for that
purpose, * * * the directors or trustees shall be chosen
annually by the stockholders and members, at the time
fixed by the by-laws, and shall hold their office until
others are chosen and qualified in their stead; the manner
of such choice and of the choice or appointment of all
other agents and officers of the company shall be pre-
scribed by the by-laws. * * *

Act of 1874,
April 29, P.
L. 73, Section
9.

In case of the death, removal or resignation of the pres-
ident or any of the directors, treasurer or other officer of
any such company, the remaining directors may supply
the vacancy thus created until the next election.

PART VI.

DIRECTORS AND OFFICERS.

Section 40. The business of every corporation shall be managed by a board of not less than three directors, one-third of whom shall be and remain, during their terms of office, residents of this Commonwealth. The directors shall be elected at the organization meeting and annually thereafter, except as hereinafter provided in section 42, and shall hold office until their successors are respectively chosen and qualified. Directors.

(2). In case of the death, removal or resignation of any of the directors, the remaining directors may supply the vacancy thus created until the next election.

(3). It shall not be necessary for any corporation to amend its articles of incorporation in order to change the number of its directors, but such number may be increased or diminished from time to time by a vote of a majority in interest of the stockholders of the corporation at any regular annual meeting or at any special meeting duly called. Any corporation may, by its by-laws, authorize the board of directors to increase or diminish the number of directors from time to time without a vote of the stockholders.

Act of 1887,
June 27, P. L.
411, Section
1.

Whenever the stockholders of any corporation incorporated under the Act of April 29, 1874, or any other law of this Commonwealth, shall, at a meeting called for the purpose, decide by a vote of those present, either in person or by proxy, to elect a portion of their directors for a term or terms longer than one year, it may and shall be lawful for such corporation, at the next ensuing election to divide the directors or managers which are to be chosen, into two, three, or four classes, and to elect the first class to serve for the term of one year, and the second, third or fourth for two, three or four years, respectively, and at all ensuing elections of said corporations, the stockholders shall only elect the number of directors necessary to take the place of those whose term of office shall then expire, and such directors shall be elected for the longest term for which any class may have been elected as hereinbefore provided.

Act of 1865,
Nov. 27, P. L.
(1866) 1228,
Section 1.

In all cases where any company has been incorporated, under the laws of this State, and a majority of the directors * * * thereof, are citizens of any other State, * * * all the meeting of such * * * directors (may be) held in such place, whether in this State or elsewhere, as such majority may, from time to time appoint. * * *

Act of 1830,
Feb. 6, P. L.
42, Section
2.

It shall be competent for the trustees, directors or managers of any corporation, heretofore or hereafter established by the laws of this Commonwealth, or for the stockholders therein, at their general meetings, to alter the times and places fixed by law for the meeting of said trustees, managers, directors or stockholders, full notice of such intended alteration having been given at the previous meeting of such trustees, directors, managers or stockholders: Provided, That no such alteration shall be made in the time of the meeting of said trustees, managers, or directors, but with the consent of two-thirds of their number, or in the time of meeting of the said stockholders, but with the consent of two-thirds of convened at a general meeting.

Act of 1891,
May 14, P. L.
61, Section 1.
(Amending
Act of 1874,
April 29, P.
73, Section
5.)

* * * A majority of the whole number of such directors or trustees shall be necessary to constitute a quorum.

Section 41. If, at the organization meeting, or at any regular annual meeting or special meeting duly called, a majority of the stockholders present, either in person or by proxy, shall vote to elect a portion of the directors of any such corporation for a term or terms longer than one year, it shall be lawful for the corporation, at the election, if any, held at such meeting or at the next election, to divide the directors into two, three or four classes, and for the stockholders to elect the first class to serve for the term of one year, and the second, third and fourth to serve for two, three and four years respectively. At each subsequent election of such corporation the stockholders shall only elect the number of directors necessary to take the place of those whose term of office shall then expire, and such directors shall be elected for the longest term for which any class may have been elected as hereinbefore provided.

Classes of Directors.

Section 42. Unless otherwise prescribed in the by-laws the meetings of the directors of any corporation may be held in such place, whether in this State or elsewhere, as the majority of the directors may from time to time appoint.¹

Directors' meetings.

¹Under the present statutory law directors' meetings can be held outside the State when a majority of the directors are not citizens of the State. There is no direct provision in the present law requiring the directors' meetings to be held within the State where a majority are citizens. There would appear to be no reason why the directors should not meet at that place, whether inside the State or out, which is most convenient to the majority.

(2). At all meetings a majority of the whole number of such directors shall be necessary to constitute a quorum.

Act of 1891,
May 14, P. L.
61, Section 1.
(Amending
Act of 1874,
April 29, P.
L. 73, Section
5.)

The business of every corporation created hereunder, or accepting the same, shall be managed and conducted by a president, a board of directors or trustees, a secretary or clerk, a treasurer, and such other officers, agents and factors as the corporation authorizes for that purpose, and nothing in any law contained shall prevent or be construed to prohibit the vice-president, treasurer, solicitor or other officer of any corporation, organized or existing under this Act, from being a director of such company and receiving at the same time such compensation for his services as such officer as the board of directors of such company may direct, * * * the manner of such choice [of director] and of the choice or appointment of all other agents and officers of the company shall be prescribed by the by-laws. The number of directors or trustees shall not be less than three; one of them shall be chosen president by the directors, or by the members of the corporation, as the by-laws shall direct. * * * The secretary or clerk shall be sworn and shall record all the votes of the corporation and the minutes of its transactions in a book to be kept for that purpose. The treasurer shall give bond in such sum and with such sureties as shall be required by the by-laws for the faithful discharge of his duties, and he shall keep the moneys of the corporation in a separate book account to his credit as treasurer, and if he shall neglect or refuse so to do, he shall be liable to a penalty of fifty dollars for every day he shall fail to do so, to be recovered at the suit of any informant, in an action of debt.

Act of 1869,
April 17, P.
L. 71, Section
2.

[This section, applying only to mining and manufacturing companies, contains the same provision as that in the Act of May 14, 1891, P. L. 61, supra, in respect to the duty of the treasurer to keep the money of the corporation in a separate bank account, and the penalty for not doing so, and in addition it contains the following provision, which may still be in force as applying to the directors of such companies: "Every director of any such corporation who shall consent to such breach of duty, or, having knowledge thereof, shall not enter his protest on the minutes of the company, shall be liable to the same penalty, to be recovered in like manner."]

Section 43. (1). The board of directors shall appoint a ^{Officers.} president, a secretary and a treasurer, and may appoint one or more vice-presidents and such other officers as may be necessary: Provided, however, that the by-laws may provide for the election of the president by the stockholders.²

²This sub-section probably modifies the present law by taking from the stockholders the right to provide in the by-laws that the officers, other than the president, may be elected by the stockholders.

(2). The president shall be a member of the board of directors. In case of his death, removal or resignation, if he shall have been elected by the stockholders, the board of directors may supply the vacancy thus created until the next election.

(3). The secretary shall be sworn and shall record all the votes of the corporation and the minutes of its transactions in a book to be kept for that purpose.

(4). The treasurer shall give bond for the faithful discharge of his duties in such sum and with such sureties as shall be required by the by-laws. He shall keep the money of the corporation in a separate bank account to his credit as treasurer. For each day during which he shall refuse or neglect to keep such separate bank account, he shall be liable to a penalty of fifty dollars, to be recovered at the suit of any informant in an action at law, and every director who, knowing the treasurer's neglect or refusal, shall not at the time file his protest with the secretary of the corporation, shall be liable to the same penalty as that imposed on the treasurer.³

³This sub-section expresses the present law, except that under the present law the penalty imposed on directors, if imposed at all, is confined to mining and manufacturing corporations.

(5). It shall be lawful for any vice-president, the treasurer, solicitor or other officer of a corporation to serve as a director of such corporation, if duly elected, and to receive at the same time such compensation for his services as officer as the board of directors may direct.⁴

⁴The section is changed in this draft so as to permit the appointment of more than one vice-president.

Act of 1874
April 29, P.
L. 73, Section
9. In case of the death, removal, or resignation of the president, * * * treasurer or other officer of such company, the remaining directors may supply the vacancy thus created until the next election.

Act of 1891,
May 20, P. L.
101, Section
1. It shall be lawful for any vice-president, treasurer or other salaried officer of any * * * business corporation to hereafter serve, or to have heretofore concurrently served such corporation as a director thereof, when lawfully elected to said position.

Act of 1849,
April 7, P.
L. 563, Sec-
tion 24. It shall be the duty of the directors of every such company [manufacturing corporations] to cause a book to be kept by the treasurer or secretary thereof, at the office or principal place of business of the company, which shall contain the names of all persons, alphabetically arranged, who are, or who shall within one year, have been stockholders of such company, showing their places of residence, the number of the shares of the stock held by them, respectively, and the time when they respectively became the owners thereof, and the amount paid on such shares, and the total amount of capital stock paid in; which book shall at the end of the year be carefully preserved in the office of the company for future reference, and shall, during the usual business hours of the day, on every business day, be open for the inspection of all persons who may desire to inspect the same, and any and every person shall have the right to make extracts from such book; * * * and if any such company shall neglect or refuse to keep such book, or to make or cause to be made any proper entry therein, or shall, on application made to any director or officer thereof, neglect or refuse to exhibit the same, or to allow extracts to be taken therefrom, as hereinbefore required, such company shall forfeit and pay to the party aggrieved fifty dollars for each and every day it shall so neglect or refuse as aforesaid, recoverable by said party as in other cases of claims against such company.

Act of 1869,
April 17, P.
L. 71, Section
1. [This extends the Act of 1849 supra, to "all manufacturing or mining companies now or hereafter incorporated under any special or general law of this Commonwealth."']

Section 44. (1). It shall be the duty of the directors of every corporation to cause a stock-book to be kept by the treasurer or secretary thereof, at the principal office of the corporation, which shall contain an alphabetical list of the names of all persons who are or shall within one year have been stockholders of such corporation, showing their places of residence, the class and number of shares held by them respectively, the time when they respectively became the owners thereof, and the amount paid thereon, and also the total amount of the capital stock paid in. Stock-book
inspection.

(2). The said stock-book shall, during the usual business hours of the day, on every business day, be open for the inspection of any stockholder or judgment creditor of the corporation or the duly authorized agent of either, and any such person shall have the right to make extracts from such book. Old stock books shall be carefully preserved in the principal office of the company for future reference.

(3). For any refusal to allow the said stock-book to be inspected, or extracts be taken therefrom, by any person authorized to inspect the same or to take such extracts, the secretary or treasurer, as the case may be, to whose custody the books shall have been committed, shall be liable to a penalty of fifty dollars for each day he shall so refuse, to be recovered by such aggrieved person in an action of law.⁵

⁵This section expresses the present law, except that the present law is confined to manufacturing and mining corporations.

Act of 1874,
April 29, P.
L. 73, Section
39, Clause 6.

* * * If any certificate made, or any statement or notice given by the officers of a company, under the provisions of this Act, is false in any material representation, all the officers who signed the same, knowing it to be false, shall be jointly and severally liable for all debts of the company contracted while they were officers or stockholders thereof.

Ibid., Clause 5.

If the directors of any company declare any dividend when the company is insolvent, or the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the company then existing, and for all thereafter contracted, so long as they respectively continue in office: Provided, That the amount for which they shall be liable shall not exceed the amount of such dividend, and if any of the directors are absent at the time of making the dividend or object thereto, at said time, and file their objections, in writing, with the clerk of the company, they shall be exempted from such liability.

Section 45. In addition to the liabilities imposed upon the directors and officers by the various sections of this Act: Liability for false statements and illegal dividends.

(a). If any certificate, statement, notice or report, made as required, shall be false in any material representation, the directors and officers who shall have signed the same, knowing it to be false [or which, with reasonable care, could have been known to be false] shall be jointly and severally liable to the creditors of the corporation for any loss or damage arising therefrom.⁶

⁶The present law makes the directors of clause 18 corporations, who have signed false certificates, liable for all the debts contracted during their term of office. The suggested provision follows the common law liability. Opinions as to the advisability of the change are solicited. The change proceeds on the theory that except in exceptional cases a private person should only be allowed to recover from another private person when he has sustained damage, and then only to the amount of the damage. Criminal liability for false reports, statements, etc., in regard to the corporation, as it exists under the present statutory law, is not covered by this Act and therefore, if this Act were adopted, would remain unaffected.

(b). If the directors of any corporation shall declare any dividend when the corporation is insolvent, or the payment of which renders it insolvent, the said directors, except those dissenting thereto, who shall have filed their objections with the secretary of the corporation at the time, or who, being absent, shall have so filed their objections upon learning of such action, shall be jointly and severally liable to the corporation for an amount equal to the amount of such dividend. If the directors shall refuse or neglect, for sixty days after the declaration of such dividend, to bring action in the name of the corporation to enforce the said liability, any director who shall have filed his objections as aforesaid, or any stockholder, or any judgment creditor of the corporation, may maintain such action in the name and on behalf of the corporation.⁷

⁷Liability for illegal dividends appears in the present law relating to clause 18 corporations. As there expressed it is a liability to the creditors, to the extent of that dividend, for all debts then existing contracted during the term of office of the directors responsible. In this section the liability is made a liability to the corporation, enforceable in the name of the corporation by any judgment creditor, stockholder, or objecting director. The reasons for this form of liability have been expressed in the note to section 13 (2), supra.

(c). If any certificate, articles, or report filed with the Secretary of the Commonwealth or with the Auditor General shall be false in any material representation, the directors, officers, or other persons who shall have signed the same, knowing it to be false, or which, with reasonable care, could have been known to be false, shall each be guilty of a misdemeanor, and shall, on conviction in the proper court, be subject to a fine of not less than five hundred dollars nor more than five thousand dollars, or to imprisonment for not less than one nor more than three years, or to both, in the discretion of the court. This liability shall be in addition to the liability, if any, imposed by clause (a) of this section.⁸

Liability for false statements and illegal dividends.
(Continued).

⁸This clause did not appear in the first draft. In the first draft the charter of the corporation was subject to be forfeited for such false reports, etc. It was deemed better to impose a penalty on the persons responsible rather than to punish innocent stockholders by forfeiting the charter.

Act of 1874,
April 29, P.
L. 73, Section
39, Clause 8.

Every such corporation (Clause 18, Corporations) shall annually, in September, make, and the president, treasurer and majority of the directors, shall sign, swear to and deposit with the recorder of deeds of such county, a certificate stating the amount of capital stock paid in, the names and numbers of shares held by each stockholder, the amount invested in real estate and in personal estate, the amount of property owned, and debts due to the corporation, on the first day of August next preceding the date of such certificates, and the amount, as nearly as can be ascertained, of existing demands against the corporation at the date of the certificate.

Ibid., Section
38. Clause
3.

The president and directors of every such corporation (iron or steel companies) shall annually lay before the stockholders a full and complete statement of the business and affairs of the corporation for the preceding year; and it shall also be their duty to make report to the Auditor-General, at such time and in such form as is or may be prescribed by law, of the operations of the corporation, to the end that he may ascertain the amount of tax due by said corporation to the Commonwealth, and such report shall be verified by oaths or affirmations of the president and treasurer of such corporation; and any such corporation which shall neglect or refuse to report to the Auditor-General, according to law, shall be liable to a penalty of five hundred dollars, for the use of the Commonwealth, to be sued for and recovered as debts of like amount are or may be by law recoverable.

PART VII.

REPORTS. OFFICIAL INVESTIGATION.

Section 46. (1). Every corporation shall, annually, in ^{Annual re-}port. January, file in the office of the Secretary of the Commonwealth a report of its condition on the thirty-first day of December next preceding the date of such report, which report shall be made on such form, if any, as may be prescribed by the secretary.¹ The report shall be signed and sworn to by the president, the treasurer and a majority of the board of directors, and shall set forth:

(a). The amount of its authorized capital stock, the proportion actually issued, the amount paid thereon, and the character of such payment, whether in cash, property or labor.

(b). A statement of the assets and liability of the corporation.

(c). The name of, and the number of shares held by, each stockholder.

(d). The names and post office addresses of the directors and officers.²

¹The time for making the report is fixed so as to be in harmony with the report of the Committee recommending January as the month for filing reports to the Auditor General.

²The present legislation requires reports to the Auditor-General for purposes of taxation. This should not, it is submitted, be part of a general incorporation act, and would not be affected in any way by the adoption of this section.

The present legislation requires that clause 18 corporations file an annual report with the recorder of deeds and that iron or steel corporations make a statement or report to the stockholders annually. The suggested sub-section, in relation to the matters to be included in the report, follows the present requirement for the report to be filed in the office of the recorder of deeds by clause 18 corporations, except that this suggested sub-section requires a description of the character of the payments made to the capital stock, and the names and post office addresses of the directors and officers. The result of the adoption of the sub-section would be that in a public office—the office of the Secretary of the Commonwealth—there would exist complete reports from all the corporations incorporated under the Act.

Act of 1874,
May 11, P. L.
135, Section
4.

* * * It shall be his (the Secretary of Internal Affairs)
especial duty to exercise a watchful supervision over
* * * business corporations of the State, and to see that
they confine themselves strictly within their corporate
limits; and in any case, any citizen or citizens shall charge,

(2). [If any report shall not be made as herein pre-^{Annual}scribed, any judgment creditor or any person who is ^{report}extending credit to the company or any stockholder may make a request, in writing, to the directors and officers to file such report, and if it shall not be filed within thirty days after the receipt of such written request, the directors and officers responsible for such default shall be jointly and severally liable in an action at law to each person so making such request, for the payment of fifty dollars for each day thereafter during which such default shall continue.] (Continued).

[(3). Furthermore, if any report shall not be filed in September, as provided, the Secretary of the Commonwealth shall give notice, in writing, of the default to such corporation. If the corporation omits to file such report within thirty days after the receipt of such notice, it shall forfeit to the Commonwealth not less than five nor more than ten dollars for each day for fifteen days after the expiration of the said thirty days, and not less than ten nor more than two hundred dollars for each day thereafter during which such default continues, or any other sum, not greater than the maximum penalty for forfeiture, which the court may deem just and equitable. If any corporation shall fail for two successive years to file its annual report, the omission shall be cause for the forfeiture of its charter.]³

³If it is desirable, from the standpoint of the creditors and stockholders, and from the standpoint of the Commonwealth itself, that regular and annual reports of all corporations shall be filed in a public office, it seems necessary that a penalty for non-compliance should be imposed upon the directors and officers responsible, not only in favor of stockholders and creditors as prescribed in sub-section 2. but in favor of the Commonwealth itself as prescribed in sub-section 3.

(4). A copy of the report required in sub-section (1) of this section shall, annually, in January, be filed in the office of the Auditor General.

Section 47. (1). [The Secretary of the Commonwealth shall have power to call for special reports from any corporation whenever, in his judgment, the same are necessary in order to secure a full and complete knowledge of the condition of any such corporation.] ^{Reports. Official Investigation.}

under oath, any corporation with transcending its corporate functions or infringing upon the rights of individual citizens, said secretary shall carefully investigate such charges and may require from said corporation a special report, as enjoined in the Constitution of the State; and in case he believes the charges are just, and the matter complained of is beyond the ordinary province of individual redress, he shall certify his opinion to the Attorney-General of the State, whose duty it shall be, by an appropriate legal remedy, to redress the same by a proceeding in the courts, at the expense of the State. * * *

(2). [In addition, the affairs and condition of any corporation may at any time be investigated by the Secretary of the Commonwealth, or by any person duly appointed by him for that purpose. For the purpose of such investigation all necessary oaths may be administered to the directors, officers and stockholders of any such corporation, and they may be examined on oath in relation to the affairs and conditions thereof, and the Secretary, or any person duly appointed by him for that purpose, may examine the safes, books, papers and documents belonging to such corporation or pertaining to its affairs and condition, and may compel the production of all keys, papers and documents by summary process, to be issued on application to any judge of any court of Common Pleas under such rules and regulations as the court may prescribe.]⁴

Reports. Official investigation (Continued).

⁴The statutes of seven States, California, Michigan, Minnesota, North Dakota, Oklahoma, South Dakota and Wisconsin, contain provisions for investigation by the legislature, or a committee of the legislature, the powers granted being similar to those conferred upon the Secretary in the suggested section. It is submitted that the legislature can pass Acts at any time if it wishes to make special investigation. The section as drawn is based on the principle that an executive officer of the Commonwealth should be permanently charged with the duty of making investigations, whenever in his judgment it is necessary for the Commonwealth to have complete information in regard to the condition of the corporation.

Act of 1911,
June 20, P. L.
1092.

Whenever material, rolling stock, or property, whether located wholly or partly within this State, and franchises, or all or any part of such material, rolling-stock, property and franchises, of any gas, water, coal, iron, steel, lumber, oil, or mining or manufacturing, transportation or telegraph company, or any railroad, canal, turnpike, bridge, or plank road, or of any corporation created by or under any law of this State, or of this State and any other State or States, shall be sold and conveyed, under and by virtue of any process or decree of any court of this State or of the United States, or under or by virtue of a power of sale contained in any mortgage or deed of trust, without any process or decree of court in the premises, the person or persons for or on whose account such material, rolling-stock, property, and franchises, * * * so sold and conveyed, may be purchased, shall be and they are hereby constituted a body politic and corporate, and shall be vested with all the right, title, interest, property, possession, claims, and demand, in law and equity, of, in and to such material, rolling-stock, property or franchise, so sold and conveyed, * * * with the appurtenances, and with all the rights, powers, immunities, privileges, and franchises of the corporation as whose the same may have been sold, and which may have been granted to or conferred thereupon by any Act or Acts of Assembly whatsoever, in force at the time of such sale or conveyance, and subject to all the restrictions imposed upon such corporations by any such Act or Acts, except so far as the same are modified hereby, or have been by any amendments or supplements thereto or modifications thereof; and with all the rights, powers, immunities, privileges, and franchises granted to or conferred by Acts now existing upon corporations of a similar kind, and subject to all restrictions imposed by statute, except as subsequently modified, or modified hereby.

PART VIII.

REORGANIZATION.

Section 48. (1). Whenever the entire property, whether located wholly or partly in this State, and the franchises of any corporation formed under the laws of this Commonwealth, or of this Commonwealth and any other State or States, or any part of the said property and franchises of any such corporation, shall be sold under and by virtue of any process of any court of this Commonwealth, or of the United States, or under or by virtue of a power of sale contained in any mortgage or deed of trust without any process or decree of court in the premises, the persons for or on whose account the said property and franchises may be purchased shall be and are hereby constituted a corporation. Certain purchasers of property and franchises to be a corporation.

(2). The said corporation shall be vested with all the right, title, interest, property, possession, claims and demands, in law and equity, of, in and to the property so sold and conveyed, with the appurtenances, and with all the rights, powers, immunities, privileges and franchises of the corporation by whom the said property and franchises shall have been owned at the time of the sale.

Act of 1911,
June 20, P. L.
1092.

* * * The person or persons purchasing, for or on whose account any such material, rolling-stock, property and franchises * * * may have been purchased, shall meet, within thirty days after the conveyance thereof shall be delivered—public notice of the time and place of such meeting having been given, at least once a week for two weeks, in at least one newspaper published in the city or county in which such sale may have been held—and organize said new corporation by electing a board of directors, consisting of not less than five nor more than fifteen [to continue in office until the first Monday succeeding such meeting, when, and annually thereafter on the said day, a like election for directors shall be held, the directors so elected to serve for one year and until their successors are elected, unless the directors shall be divided into not more than four classes, in which case the term of office of one class shall expire on each first Monday of May thereafter] and shall adopt a corporate name and common seal, determine the amount of the capital stock thereof without being restricted to the amount theretofore issued by the corporation whose property and franchises had been sold. Not in excess, however, of the aggregate amount of the capital stock authorized to be issued by the corporation whose property and franchises had been sold, together with the amount of the bonded indebtedness of such corporation outstanding at the time of the sale, and of any receiver's certificate or other receiver's indebtedness necessary to be paid, and the amount that will represent all further moneys contributed to such new or reorganized corporation. The said stock thus issued by the said new corporation may consist wholly of common stock, or partly of common stock and partly of preferred stock, and the whole, or any part thereof, may be issued as fully paid stock, in payment, or part payment, for the property so purchased. Said new corporation shall have power and authority to make and issue certificates therefor, in shares of not more than one hundred dollars each, and may at any time thereafter create and issue preferred stock to such an amount and on such terms as such corporation may deem necessary; and, from time to time, may issue bonds to any amount, and may secure the same by one or more mortgages upon the real and personal property and corporate rights and franchises, or either, or any part or parts thereof * * *.

Section 49. (1). The person or persons for or on whose account the said property and franchises may have been purchased, shall hold an organization meeting, within thirty days after the conveyance thereof shall have been delivered, notice of the time and place of such meeting having been given, once a week for two weeks, in at least one newspaper published in the city or county in which the said sale may have been held.

(2). At such meeting the said purchasers shall organize by the adoption of a corporate name and seal, and by the election of directors, and shall determine the amount of capital stock of the said corporation, the number of shares into which it is to be divided, and the par value of each share. The amount of the capital stock shall not exceed the aggregate amount of the capital stock authorized to be issued by the corporation whose property and franchises shall have been sold, together with the amount of the bonded indebtedness of such corporation outstanding at the time of the sale, and of any receiver's certificate or other receiver's indebtedness necessary to be paid, and the amount that will represent all further money contributed to such new or reorganized corporation. The said stock may consist wholly of common stock, or partly of common stock and partly of preferred stock, and the whole or any part thereof may be issued as fully paid stock in payment or part payment for the property and franchises so purchased.

(3). Except as hereinbefore or hereinafter modified, the said corporation shall be subject in all respects to the provisions of this Act: Provided, That nothing herein shall be held to require the payment of any bonus upon the amount of the capital stock of the said corporation.^f

^fIn the present Act, the directors of the new corporation are to be not less than five nor more than fifteen. In the suggested section, on the other hand, the number of directors is governed by the same limitations as in the case of any other corporation.

Act of 1878,
May 25, P. L.
145, Section
2.

It shall be the duty of such new corporation, within one calendar month after its organization, to make a certificate thereof, under its common seal, attested by the signature of its president, specifying the date of its organization, the name so adopted, the amount of capital stock, and the names of its president and directors, and transmit the said certificate to the Secretary of State, at Harrisburg, to be filed in his office and there remain of record; and a certified copy of such certificate, so filed, shall be evidence of the corporate existence of said new corporation.

Section 50. (1). The said corporation shall, within one month after its organization meeting, file in the office of the Secretary of the Commonwealth a certificate, under its corporate seal and attested by the signature of its president and a majority of its directors, specifying the date of its organization and all such information as is required to be set forth in original articles of incorporation. Such certificate shall be recorded in the office of the Secretary of the Commonwealth in a book to be kept by him for that purpose, and shall then be returned to the corporation.

Certificate to
be filed after
organization.

(2). Such certificate shall be recorded in the office of the Recorder of Deeds in and for the county in which the principal office of the corporation is located. Failure so to record shall subject the directors to the same penalty as is prescribed in section 10, in the case of failure to record the certificate of incorporation.²

²The section is changed in this draft to require recording of the original certificate.

(3). A copy of such certificate, duly certified by the Secretary of the Commonwealth, shall be conclusive evidence of the corporate existence of the said corporation.³

³This section is substantially the same as the present legislation, except the provisions which have been inserted to maintain consistency with the earlier sections of this Act dealing with incorporations and organizations.

Act of 1909,
May 3, P. L.
408, Sec-
tion 1.

It shall be lawful for any corporation, now or hereafter organized under the provisions of any general or special Act of Assembly authorizing the formation of any corporation or corporations, to merge its corporate rights, franchises, powers and privileges with and into those of any other corporation or corporations, transacting the same or a similar line of business, so that by virtue of this Act such corporations may consolidate and so that all the property, rights, franchises and privileges then by law vested in either of such corporations so merged, shall be transferred to and vested in the corporation into which such merger shall be made; * * * [Several provisos follow, relating to public service corporations which are not included within the scope of the suggested Act.]

Act of 1909,
May 3, P. L.
408, Section
2.

Said merger or consolidation shall be made under the conditions, provisions and restrictions, and with the powers herein set forth, to wit:

First. The directors of each corporation shall enter into a joint agreement, under the corporate seal of each corporation, for the merger and consolidation of said corporations; prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers, and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each of said corporations into the stock of the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect the said consolidation and merger; but said agreement shall not be effective unless the same shall be approved by the stockholders of said corporations in the manner hereinafter provided.

PART IX.

CONSOLIDATION.

Section 51. Any corporation may, as hereinafter provided, consolidate with any other corporation or corporations transacting the same, or a similar kind of business.¹ What corporations may consolidate

¹The existing statute speaks of consolidation and merger, but the Act taken as a whole apparently intends to provide only for the creation of a new corporation as the result of the consolidation of two existing corporations. Merger properly defined is the absorption of one corporation into another existing corporation. In this Act, therefore, the word "merger" is omitted, as it is the intent substantially to re-enact the present legislation.

Section 52. The directors of each corporation shall enter into a joint agreement, under the corporate seal of each corporation, prescribing: Joint agreement by directors.

(a). The terms and conditions of the said consolidation, and the mode of carrying the same into effect.

(b). Such matters as are required to be set forth in original articles of incorporation.

(c). The manner of converting the capital stock of each of the said corporations into the capital stock of the new corporation.

(d). Such other details as the said directors shall deem necessary to perfect the said consolidation.

[Provided, that nothing herein shall permit the said consolidated corporation to issue paid up capital stock in exchange for the capital stock of the corporations so consolidating to an amount greater than the aggregate

Act of 1909,
May 3, P. L.
408, Section
2.

Second. Said agreement shall be submitted to the stockholders of each of said corporations at separate special meetings or at any annual meeting, of the time, place and object of which respective meetings due notice shall be given by publication, once a week for two consecutive weeks, before said respective meetings, in at least one newspaper in the county or in each of the counties in which the principal office of said respective corporations shall be situate—excepting in the case of the merger or consolidation of certain corporations which, upon their original incorporation, are required by the Constitution to publish notice of intention to incorporate for a longer period than two weeks, in which case notice by publication shall be as required by the Constitution—and at said meetings the said agreement of the directors shall be considered, and a vote of the stockholders in person, or by proxy, shall be taken, by ballot, for the adoption or rejection of the same, each share of stock entitling the holder thereof to one vote; and if a majority in amount of the entire capital stock of each of said corporations shall vote in favor of said agreement, merger and consolidation, then that fact shall be certified by the secretary of each corporation, under the corporate seal thereof, and said certificates, together with the said agreement, or a copy thereof, shall be filed in the office of the Secretary of the Commonwealth, who shall forthwith present the same to the Governor for his approval, and when approved by the Governor the said agreement shall be deemed and taken to be the act of consolidation of said corporations.

Act of 1909,
May 3, P. L.
408, Section
3.

[See present legislation, Section 54.]

Upon the filing of said certificates and agreement, or copy of the agreement, in the office of the Secretary of the Commonwealth, and upon the issuing of new letters patent thereon by the Governor, the said merger shall

amount of the paid up capital stock of such corporations.]²

Joint agree-
ment by di-
rectors
(Continued).

²The section expresses present legislation with the exception of the proviso, the purpose of which is to prevent overcapitalization by the issuance of new stock in exchange for the old stock in excess of the value received by the new corporation.

Section 53. The said agreement shall be submitted to the stockholders of each of the said corporations at separate special meetings, or at any annual meetings, a notice designating the time, place and purpose of which shall be given at least two weeks successively, once a week, next preceding the time appointed for the said respective meetings. A vote of the stockholders shall be taken by ballot, and if a majority in interest of the stockholders of each corporation shall vote in favor of the said agreement, the fact that a majority of the stockholders of his corporation have so voted shall be certified by the secretary of each corporation, under the corporate seal thereof.

Approval of
stockholders.

Section 54. (1). The certificates of the secretaries provided for in Section 53, together with the agreement of consolidation, shall be filed in the office of the Secretary of the Commonwealth.

Filing of
necessary pa-
pers and
payment of
bonus.

be deemed to have taken place, and the said corporations to be one corporation under the name adopted in and by said agreement, possessing all the rights, privileges and franchises theretofore vested in each of them, and all the estate and property, real and personal, and rights of action of each of said corporations, shall be deemed and taken to be transferred to and vested in the said new corporation without any further act or deed: Provided, That all rights of creditors and all liens upon the property of each of said corporations shall continue unimpaired, and the respective constituent corporations may be deemed to be in existence to preserve the same; and all debts, duties and liabilities of each of said constituent corporations shall thenceforth attach to the said new corporation, and may be enforced against it to the same extent and by the same process as if said debts duties and liabilities had been contracted by it. But such merger and consolidation shall not be complete, and no such consolidated corporation shall do any business of any kind, until it shall have first obtained from the Governor of the Commonwealth new letters patent, and shall have paid to the State Treasurer a bonus as prescribed by law upon all its capital stock in excess of the amount of capital stock of the several corporations so consolidating, upon which the bonus required by law has been theretofore paid: And provided further, That new letters patent shall not be issued by the Governor of the Commonwealth until each and every corporation entering into and forming the consolidated corporation shall have filed with the Secretary of the Commonwealth a certificate from the Auditor-General of the Commonwealth, setting forth that all reports required by the Auditor-General of the Commonwealth have been duly filed to the date of the proposed merger, and that all taxes due the Commonwealth of Pennsylvania have been paid, up to and including said date.

[See present legislation, Section 55.]

Act of 1909.
May 3, P. L.
408, Section
4.

A certified copy of said certificate and agreement, or copy of agreement, so to be filed in the office of the Secretary of the Commonwealth, shall be evidence of the lawful holding and action of such meetings, and of the merger and consolidation of said corporations.

(2). At the same time a bonus as prescribed in section 7 shall be paid to the State Treasurer upon the amount of the capital stock of the new corporation in excess of the amount of capital stock of the several corporations so consolidating upon which the said bonus shall have been theretofore paid.

Filing of
necessary
papers and
payment of
bonus.
(Continued).

(3). Each of the corporations so consolidating shall also file in the office of the Secretary of the Commonwealth a certificate from the Auditor-General, setting forth that all reports required by the Auditor-General up to the date of the proposed consolidation have been duly filed, and that all taxes due the Commonwealth have been paid, up to and including said date.

Section 55. (1). It shall thereupon be the duty of the Secretary of the Commonwealth, if he shall find that the provisions of this Act have been complied with, to endorse his approval on the agreement of consolidation, and to submit the same, together with the certificates of the secretaries of each corporation, to the Governor,

Issuance of
certificate of
consolidation.

[See present legislation under Section 55.]

Act of 1909,
May 3, P. L.
408, Section
5.

If any stockholder or stockholders of any corporation, which shall become a party to an agreement of merger and consolidation hereunder, shall be dissatisfied with or object to such consolidation, and shall have voted against the same at the stockholders' meeting, it shall and may

who, if he shall also be satisfied that the provisions of this Act have been complied with, shall endorse his approval on the agreement and direct a certificate of consolidation to issue.

Issuance of
certificate of
consolidation
(Continued).

(2). Upon the issuance of the certificate of consolidation, the said consolidation shall be deemed to have taken place, and the said certificate of consolidation, or a copy thereof, duly certified by the Secretary of the Commonwealth, shall be [conclusive] evidence of the said consolidation and of the corporate existence of the consolidated corporation.

(3). [The certificate of consolidation shall be recorded in the office of the Recorder of Deeds in and for the county in which the principal office of the new corporation is located. Failure so to record shall subject the directors to the same liability as prescribed in section 10, in the case of a failure to record the certificate of incorporation.]

Section 56. (1). Upon the issuance of the certificate of consolidation the consolidated corporation shall possess all the rights, privileges and franchises theretofore vested in each of the corporations so consolidating, and all the property, real and personal, and rights of action of each of said corporations shall be deemed and taken to be transferred to and vested in the said new corporation without any further act or deed.

Effect of
consolidation.

(2). All debts, duties and liabilities of each of the said corporations shall thenceforth attach to the new corporation, and may be enforced against it to the same extent and by the same process as if said debts, duties and liabilities had been contracted by it: Provided, That all rights of creditors and liens upon the property of each of the said corporations shall continue unimpaired, and the respective constituent corporations may be deemed to be in existence to preserve the same.

Section 57. (1). If any stockholder or stockholders of any corporation which shall become a party to an agreement of consolidation hereunder, shall have voted against such agreement at the stockholders' meeting, such stockholder or stockholders may, within thirty days after the

Rights of dis-
senting stock-
holders.

be lawful for any such stockholder or stockholders, within thirty days after the adoption of said agreement of merger and consolidation by the stockholders, as herein provided, and upon reasonable notice to said corporation, to apply by petition to any court of common pleas of the county in which the chief office of such corporation may be situate, or to a judge of said court in vacation, if no such court sits during said period, to appoint three disinterested persons to estimate and appraise the damages, if any, done to such stockholder or stockholders by said consolidation. Upon such petition, it shall be the duty of said court or judge to make such appointment; and the award of the persons so appointed, or of a majority of them, when confirmed by the said court, shall be final and conclusive; and the persons so appointed shall also appraise the share or shares of said stockholders, in the said corporations, at the full market value thereof, without regard to any appreciation or depreciation in consequence of the said consolidation; which appraisal, when confirmed by the said court, shall be final and conclusive; and the said corporation may, at its election, either pay to the said stockholder or stockholders the amount of damages so found and awarded, if any, or the value of the stock so ascertained; and upon the payment of the value of the stock, as aforesaid, the said stockholder or stockholders shall transfer the stock so held by them to the said corporation, to be disposed of by the directors thereof or to be retained for the benefit of the other stockholders; and in case the value of said stock, as aforesaid, shall not be so paid within thirty days after the said award shall have been confirmed by the said court, the damages so found and confirmed shall be a judgment against said corporation, and may be collected as other judgments in said court are by law recoverable.

(The Act of 1901, May 29, P. L. 349, amended by the Act of 1905, March 31, P. L. 95, was enacted as a supplement to the Act of 1874, April 29, P. L. 73, and provides for the merger and consolidation of a corporation with any other corporation, not restricting such consolidation to a corporation transacting the same or a similar kind of business. In practically all other particulars the Act is the same as the later Act of 1909, *supra*. The Act of 1909 does not expressly repeal the Act of 1901, and it may therefore be in force.)

issuance of the certificate of consolidation, and upon reasonable notice to the said consolidated corporation, apply, by petition, to any court of Common Pleas of the county in which the principal office of the said consolidated corporation is located, or to a law judge of said court in vacation, if no such court sits during that period, to appoint three disinterested persons to appraise the share or shares of such stockholder or stockholders in the corporation or corporations so consolidating.³

Rights of dissenting stockholders
(Continued).

³Under present legislation the damages suffered by the dissenting stockholder, as well as the value of his shares, are appraised, and the corporation has the option of paying such damages, if any, or of paying the value of the shares. The suggested section proceeds on the theory that a dissenting stockholder has the right to be paid the value of his shares rather than be compelled to continue a member of the consolidated corporation, with a right to receive only the damages, if any, which he has suffered from the consolidation.

(2). Upon such petition it shall be the duty of said court or judge to make such appointment. The persons so appointed shall appraise the share or shares of said stockholders at the full market value thereof, without regard to any appreciation or depreciation in consequence of the said consolidation; and such appraisement, when confirmed by the said court or judge, shall be final and conclusive.

(3). Upon the payment by the consolidated corporation of the value of the share or shares as so ascertained, the stockholder or stockholders shall transfer the share or shares so held to the consolidated corporation, which may reissue such share or shares or receive subscriptions therefor, as in the case of stock not issued or subscribed for. [If not sold for the par value or subscribed for within six months after the transfer to the corporation, the said share or shares shall be cancelled and deducted from the amount of the capital stock.]⁴

⁴The provision in respect to cancellation in case the shares are not re-sold within six months is taken from that part of the New York statute which deals with the forfeiture of stock for non-payment of assessments. Its purpose here is to protect future creditors of the consolidated corporation.

(4). If the value of the share or shares, ascertained as aforesaid, shall not be paid within thirty days after

the appraisement shall have been confirmed by the said court or judge, the amount of such appraisement so confirmed shall be a judgment against the consolidated corporation, and may be collected as other judgments in said court are by law recoverable.

Rights of dissenting stockholders
(Continued).

Act of 1856,
April 9, P.
L. 293.

It shall be lawful for any court of common pleas of the proper county to hear the petition of any corporation under the seal thereof, by and with the consent of a majority of a meeting of the corporators, duly convened, praying for permission to surrender any power contained in its charter, or for the dissolution of such corporation; and if such court shall be satisfied that the prayer of such petition may be granted without prejudice to the public welfare, or the interests of the corporators, the court may enter a decree in accordance with the prayer of the petition, whereupon such power shall cease or such corporation be dissolved. * * *

Act of 1874,
April 29, P.
L. 73, Section 39,
Clause 10.

* * * The court of common pleas of the proper county shall have the same power to dissolve such corporation (Clause 18, Corporations) upon petitions filed under the corporate seal, which it now has with regard to other corporations. * * *

Act of 1889,
June 1, P. L.
420, Section 32.

No corporation * * * made taxable by this Act, shall hereafter be dissolved by the decree of any court of common pleas, nor shall any judicial sale be valid, or a distribution of the proceeds thereof be made, until all taxes due the Commonwealth have been fully paid into the State Treasury, and a certificate of the Auditor-General, State Treasurer and Attorney-General to this effect filed in the proper court, with the proceedings for dissolution or sale.

PART X.

DISSOLUTION.

Section 58. [The dissolution of a corporation is the cessation of the right to carry on, as distinguished from the right to wind up, the business of the corporation.] Dissolution defined.

Section 59. (1). [Whenever a majority of the entire number of the board of directors of any corporation shall deem it advisable that the corporation shall be dissolved and shall pass a resolution to that effect, a meeting of the stockholders shall be called to take action upon the same. A notice, designating the time, place and purpose of such meeting shall be given at least four weeks successively, once a week, next preceding the time appointed for such meeting.] Voluntary dissolution.

(2). [If at such meeting two-thirds in interest of all the stockholders shall signify, in writing, their consent that a dissolution shall take place, such consent, together with a list of the names and residences of the directors, signed and sworn to by the president, secretary, and a majority of the board of directors, shall be filed in the office of the Secretary of the Commonwealth. At the same time, there shall be filed in the same office a certificate from the Auditor-General, setting forth that all taxes due the Commonwealth have been paid, up to and including the date of the proposed dissolution.]

(3). [The Secretary of the Commonwealth, upon being satisfied by due proof that the requirements aforesaid have been complied with, shall issue a certificate that such consent has been filed. The board of directors shall thereupon cause such certificate to be published four weeks successively, at least once a week, in a newspaper published in the county in which the principal office of the corporation is located and in the legal journal, if any, designated by rule of court in said county for the publication of legal notices.]

Act of 1883,
June 13, P.
L. 122, Sec-
tion 5.

Any corporation of the second class, created under the provisions of the Act to which this is a supplement, or any of its supplements, that shall not, within two years from the date of its letters patent, proceed in good faith to organize and to do the things contemplated by its charter, and have paid up at least one-fourth of its capital stock, shall be held and deemed to have forfeited its charter, and the Attorney-General shall, on the application of any citizen, take the proper legal steps to forfeit and vacate its said charter * * *.

Act of 1889,
May 16, P. L.
241, Section
1. (Amend-
ing Act of
1876, April
17, P. L. 30,
Section 11.)

If any company incorporated under this Act, or any of its supplements, shall not proceed in good faith to carry on its work and construct or acquire its necessary buildings, structures, property or improvements within the space of two years from the date of its letters patent, and shall not within the space of five years thereafter complete the same, the rights and privileges thereby granted to said corporation shall revert to the Commonwealth: Provided, however, That it shall be lawful for any such corporation, who shall have proceeded in good faith as aforesaid, at any time before the expiration of the said period of five years, or of any extension thereof, to apply to the court of common pleas in and for the county in which said corporation shall have its principal office for an extension of such time as herein provided. Such ap-

(4). Upon the filing, in the office of the Secretary of the Commonwealth, of an affidavit that the said certificate has been so published, the Secretary shall issue a certificate of dissolution, whereupon the corporation shall be dissolved, and the board of directors shall proceed to wind up its affairs as hereinafter provided. The certificate of dissolution, or a copy thereof, duly certified by the Secretary, shall be conclusive evidence of such dissolution.]¹

Voluntary
dissolution.
(Continued).

¹Twenty-six States authorize voluntary dissolution without recourse to the courts. The method here proposed is that in force in New Jersey, except that in New Jersey dissolution takes effect upon the filing of an affidavit of publication. The requirement in the suggested section that the Secretary issue a certificate and carries out the general policy of this Act to require official investigation of the fact whether the requirements of the Act necessary to produce a certain effect have been complied with, and then the issuance of a certificate which is conclusive evidence of that compliance.

Section 60. (1). The charter of any corporation shall be subject to be forfeited, and the Attorney-General shall take the proper legal steps to have such corporation dissolved and its charter forfeited, if it

Involuntary
dissolution
or forfeiture

(a). Shall not, within two years from the date of its incorporation, proceed in good faith to organize and commence business, or

(b). Shall not, within two years from the date of its incorporation, have paid up at least one-fourth of its capital stock, or

(c). [Shall have failed, for two successive years, to file the annual report required by Section 46], or

(d). Shall violate the provisions of the Act of Congress of July second, one thousand eight hundred and ninety, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," or any amendment or supplement thereto, or²

(e). Shall do, suffer, or omit to do any act, matter or thing whereby a forfeiture shall by law be created.

²A violation of the Sherman Anti-trust Act as a ground for forfeiture did not appear in the first draft.

Forfeiture because of false statements in reports to the Secretary of the Commonwealth has been omitted. (See note 8 to Section 45, *supra*.)

plication shall be made upon a petition, under the common seal of such corporation, and verified by its president or other presiding officer, setting out the grounds of the application, and that the same is made pursuant to a resolution of the board of directors of said company at a meeting called for that purpose, a duly certified copy of which resolution shall be annexed to said petition. Thereupon it shall be the duty of such court to set down said petition for hearing before it upon some day to be fixed by said court, and to direct that notice of such petition shall be given by publication or otherwise, as the court shall direct. Upon the day so fixed, or upon such subsequent day or days as the matter may be adjourned to, said court shall proceed to a hearing of said petition, and it being made to appear to said court that the order of notice herein provided for has been complied with, said court may, by order, adjudge and direct that the time of such corporation to complete its necessary buildings, structures, property, or improvements, shall be extended for a period not exceeding five years beyond the time fixed by law for the completion thereof, and thereupon, upon filing a duly certified copy of such order in the office of the Secretary of the Commonwealth, the time of such corporation to complete its necessary buildings, structures, property or improvements shall be extended as provided in such order: Provided, further, That when said buildings, structures, property or improvements are wholly within one county, said application shall be made to the court of common pleas in and for said county.

(Act of 1903, March 27, P. L. 79, Section 1, and Act of 1870, April 1, P. L. 45; Section 1 relates to the dissolution of corporations incorporated prior to the passage of the respective Acts under particular circumstances. These Acts are not cited for repeal. See *infra*.)

Act of 1856,
April 9, P.
L. 293, Sec-
tion 1.

* * * The decree (of Dissolution) of the said court (see this section as set forth under Present Legislation in Section 61, *supra*) shall not go into effect until a certified copy thereof be filed and recorded in the office of the Secretary of the Commonwealth.

(2). A certified copy of every decree or judgment dissolving a corporation shall be forthwith filed by the clerk of the court in the office of the Secretary of the Commonwealth. <sup>Involuntary
dissolution
or forfeiture
(Continued).</sup>

Act of 1907,
May 23, P. L.
204. (Amend-
ing the Act of
1881, May 21,
Section 1.)

All corporations for mining, manufacturing or trading purposes, whether created by general or special Acts of Assembly, whose charters may have expired, or which may have been dissolved or may hereafter be dissolved by any judicial decree, may bring suits and maintain and defend suits already brought, for the protection and possession of their property, and the collection of debts and obligations owing to or by them, and sell, convey and dispose of their property, and make a title therefor, as fully and effectively as if their charters had not expired or such decree had not been made; and the officers last elected, or the survivors of them, shall be officers to represent said corporation, for such purposes, and if no officers survive, the stockholders may elect officers under their by-laws: Provided, That this Act shall be construed only so as to enable said corporations to realize and divide their assets and wind up their affairs, and not to transact new business.

Act of 1872,
April 4, P.
L. 46, Section
1.

Whenever any corporation, incorporated under the laws of this Commonwealth, shall have been dissolved by judgment of ouster, upon proceedings of quo warranto in any court of competent jurisdiction, all the estate, both real and personal, of which such corporations are in any way seized or possessed, shall pass to and vest in the persons who at the time of such dissolution are the officers of such corporation, in trust to hold the same for the benefit of the stockholders and creditors of the corporation.

Act of 1891,
April 15, P.
L. 15, Section
1. (Amending
Act of 1885,
June 25,
Section 1.)

Whenever it has occurred or shall happen that any corporation has been or shall be dissolved, whether by decree of court, expiration of time, or otherwise, owning land or other real estate within this Commonwealth, it shall and may be lawful for the court of common pleas of the county wherein the real estate is, or shall be located, upon the petition of any one or more of the shareholders or corporators, or their legal representatives, and personal notice to and service upon all known parties in interest, whose places of residence are known, and such further notice, by advertisement, to others interested, as the court may direct, if no reasonable and sufficient cause be shown to the contrary, to authorize the sale of such real estate, in fee simple, at either public or private sale,

Section 61. Every corporation after dissolution, whether Effect of dis-
by expiration of its charter, by forfeiture, or otherwise, solution.
shall be continued a body corporate for the purpose of
suing and being sued and maintaining suits already
brought, and of enabling its affairs to be wound up, its
property to be conveyed and disposed of and its assets
to be collected and distributed, but not for the purpose
of continuing the business for which it was incorporated.

Section 62. Upon any dissolution the directors at the Directors to
time of such dissolution shall proceed to wind up the wind up
affairs of the corporation, unless a receiver shall have affairs.
been appointed by the court. The terms of such directors
shall not expire at the expiration of the term for which
they shall have been elected. If any vacancy shall occur
in the board of directors after dissolution, such vacancy
shall be filled by appointment of the remaining directors.

upon such terms as the court may designate, by a trustee to be appointed for that purpose, which trustee, before making such sale, shall give security for the faithful application of the proceeds of such sale according to law, to be approved by the court, in double the probable value of the land to be sold, and the proceeds of such sale shall be distributed by the party making the same, as part of the effects of the defunct corporation, to creditors or shareholders, as the said court may adjudge them to be entitled, and if said corporation had made sale of real estate and had not conveyed the same, such court may decree conveyance in specific execution of such contract in manner aforesaid.

Act of 1893,
April 26, P.
L. 26, Section
1.

Whenever any corporation incorporated under the laws of this Commonwealth shall be dissolved by judgment of ouster upon proceedings of quo warranto in any court of competent jurisdiction, the said court, or in vacation any of the law judges thereof, shall have power to appoint a receiver, who shall have all the powers of a receiver appointed by a court of chancery to take possession of all the estate, both real and personal thereof, and make distribution of the assets among the persons entitled to receive the same according to law. The powers of such receiver may continue as long as the court deems necessary for said purposes, and he shall be held to supersede an assignee of the corporation in possession.

Section 63. (1). Upon the dissolution in any manner ^{Appointment} of any corporation, a court of equity, or in vacation any ^{of receiver.} judge thereof, shall have power to appoint a receiver to take charge of and wind up the affairs of such corporation, who shall be held to supersede the directors of the corporation or any assignee in possession.

(2). [Such receiver shall have power to maintain and defend suits in the name of the corporation, to carry on the business of the corporation so far as may be necessary for the beneficial winding up thereof, to sell and convey its property, to enforce the liability of stockholders prescribed in section 38, and the liability of directors prescribed in sections 9, 13, 26, 45, 46 (2), 50 (2) and 55 (3), and to do all other acts necessary or proper to wind up the affairs of the corporation. The said court of equity shall have jurisdiction of all questions arising after the appointment of the receiver and may make such orders and decrees thereon as justice and equity shall require. The powers of the receiver may be continued as long as the court deems necessary for said purposes.]

Section 64. (1). [Whenever any corporation shall be ^{Insolvency.} come insolvent, any creditor or any stockholder thereof may by bill apply to a court of equity for the appointment of a receiver to take charge of and wind up the affairs of such corporation. Such receiver, if appointed, shall have all the powers and be subject to all the duties of a receiver appointed upon or after the dissolution of a corporation.]³

³The section is changed by omitting the word "judgment" so **Insolvency.** as to give any creditor a right to apply for the appointment (Continued). of a receiver upon the insolvency of a corporation.

(2). [Whenever such receiver shall have been appointed and it shall afterwards appear that the debts of the corporation have been paid or provided for, and that there remains, or can be obtained by further contributions, sufficient capital to enable it to resume its business, the said court of equity may, in its discretion, a proper case being shown, dismiss the receiver, and thereafter the corporation may resume control of its property, franchises, rights, and effects as fully as if such receiver had never been appointed; or the court may, in its discretion, make a decree dissolving the corporation and directing the receiver to wind up the affairs of the corporation.]⁴

⁴This section is taken substantially from the New Jersey Act. By the common law of this State it appears that a receiver can be appointed on insolvency. *Cowan vs. Plate Glass Company*, 184 Pa. 1; *Gehr vs. Iron Company*, 174 Pa. 430. The change introduced by the suggested section is to make insolvency a ground for dissolution, if, in the opinion of the Court, the company should be dissolved.

PART XI.

SUPPLEMENTARY.

Section 65. In all cases in which notice is required to be given by the provisions of this Act to the stockholders of any corporation, such notice shall be given, unless otherwise specifically prescribed, by publication in at least one newspaper published in the county in which the principal office of the corporation is located. Method of giving notice.

Section 66. Every corporation now in existence whose purpose is included within the purposes for which a corporation may be formed under this Act, which shall have been formed under or have accepted the provisions of the Act approved April 29, 1874, entitled "An Act to provide for the incorporation and regulation of certain corporations," or any amendment or supplement thereto, shall, from and after the passage of this Act, be subject to its provisions in respect to the future government and regulation of such corporation: Provided, Extent to which Act is applicable to existing corporations.

(a). That nothing in this Act shall permit a change in the purpose for which such corporation was formed without the unanimous consent of its stockholders.

(b). That sections 13 and 14 shall not apply to shares held by a corporation at the time of the taking effect of this Act.

(c). That section 38 (2) shall not be held to impose liability on stockholders in respect to shares owned by them prior to the taking effect of this Act.

Section 67. In this Act, unless the context or subject matter otherwise requires— Definitions.

"Incorporators" means those subscribers to a share or shares of the capital stock who associate to form the corporation.

“Corporation” means a corporation formed under the provisions of this Act or subject thereto. Definitions
(Continued).

“Person” includes individuals, partnerships, corporations and other associations.

Section 68. All Acts or parts of Acts inconsistent with the provisions of this Act be, and the same are hereby repealed in as far as their provisions are applicable to corporations formed under this Act or subject to its provisions: Provided, That any Acts or parts of Acts relating to the transfer of certificates of stock shall remain in effect as far as they apply to certificates issued prior to the taking effect of the Act approved the fifteenth day of May, one thousand nineteen hundred and eleven, entitled “An Act to make uniform the law of transfer of shares of stock in corporations.”¹ Acts
repealed.

¹The Committee is advised that the following table includes the Acts or parts of Acts which would be repealed:

Year	Month and Day	Pamphlet Laws	Section
1816	March 19	390	all
1820	March 28	7 Sm. L. 320	all
1830	February 6	42	2
1847	March 6	222	1, 4
1849	April 7	563	24
1849	April 21	673	1
1856	April 9	293	all
1858	April 20	356	all
1864	September 30	(1865) 961	all
1865	November 27	(1866) 1228	all
1867	April 15	81	all
1868	March 31	50	all
1869	April 17	71	all
1872	April 3	37	all
1872	April 4	40	all
1872	April 4	46	all
1873	February 17	35	all
1873	February 20	36	all
1873	April 28	79	all
1873	May 1	87	all
1874	April 29	73	all
1874	May 15	186	all
1876	April 17	30	1, 2, 3, 4, 5, 9, 10, 11.
1876	April 25	47	all
1878	April 17	22	all
1878	May 25	145	all
1879	May 2	47	all
1883	June 13	122	1, 2, 3, 4, 5.

Year	Month and Day	Pamphlet Laws	Section	Acts repealed (Continued).
1887	May 24	188	all	
1887	May 31	281	all	
1887	June 17	411	all	
1889	April 17	37	all	
1889	May 9	180	all	
1889	May 16	241	all	
1889	May 21	257	all	
1891	April 15	15	all	
1891	April 15	18	all	
1891	May 14	61	all	
1891	May 20	101	all	
1893	April 26	26	all	
1893	May 11	42	all	
1893	May 15	48	all	
1893	May 26	141	all	
1893	June 3	287	all	
1893	June 8	351	all	
1893	June 8	355	all	
1893	June 10	417	1, 6.	
1893	June 10	435	all	
1895	June 24	258	all	
1895	June 24	295	all	
1895	June 26	369	all	
1899	May 3	189	all	
1901	February 9	3	all	
1901	April 19	80	all	
1901	May 29	344	all	
1901	May 29	349	all	
1901	July 2	603	all	
1901	July 2	606	all	
1901	July 9	624	all	
1903	March 5	14	all	
1903	March 24	50	all	
1903	April 22	251	all	
1903	April 23	272	all	
1905	March 16	42	all	
1905	March 24	56	1	
1905	March 31	93	all	
1905	March 31	95	all	
1905	April 22	264	1, 2.	
1905	April 22	280	all	
1907	May 23	204	all	
1909	May 3	408	all	
1909	May 11	515	all	
1911	June 1	540	all	
1911	June 20	1092	all	

Section 69. This Act may be cited as the Business Cor- Name of Act
poration Act.

Section 70. This Act shall take effect on the _____ day of _____, one thousand nine hundred and _____. When Act takes effect.

SHARES WITHOUT A PAR VALUE.

There has been some agitation in recent years in favor of eliminating the par value of shares of stock, upon the theory that a share of stock represents only a certain fractional part of the assets of the corporation, and that the fixed par value bears no necessary relation to the value of that fractional part. Such being the case, it is contended that the retention of a certain dollar mark upon the face of the certificate of stock not only is of no essential importance, but tends to establish a fictitious value in the minds of owners and prospective purchasers. It is also claimed that the power to issue stock without a par value is of particular advantage in the case of consolidation and reorganization.

The plan received the approval of the New York State Bar Association, and a recent amendment to the laws of New York has given to corporations the power to issue this type of shares. (New York Laws of 1912, Chapter 351.)

On the other hand, it has been objected that the creation of shares without par value will permit inflation by making it easy to issue an excessive number of shares, and will be apt to lead to complications in the established law.

The par value, it is argued, is simply a convenient fraction into which the share capital has been divided, and only the most ignorant will assume the the par value must necessarily be its real value.

While extremely doubtful as to its advisability, it has been thought fit to present for consideration sections embodying provisions for the issuance of such shares, and expressions of opinion in regard to the incorporation of them into the proposed revision of the corporation laws of the State are earnestly solicited. In general, the amendment to the New York laws has been followed, with a few changes which appeared advisable. If adopted, the sections should perhaps be inserted at the end of Part IV, dealing with capital stock and bonds.

Section A. [Issuance of shares without par value.] (1) Upon the formation of any corporation, provision may be made for the issuance of the shares of stock of such corporation, other than preferred stock having a preference as to principal, without any par value, by stating in the articles of incorporation:

(a) The number of shares that may be issued by the corporation, and if any such shares be preferred stock, the preferences thereof. If such preferred stock, or any part thereof, shall have a preference as to principal, the articles shall state the amount of such preferred stock having such preference and the amount of each share thereof.

(b) The amount of capital with which the corporation will carry on business, which amount shall not be less than the amount of preferred stock with a preference as to principal, and in addition thereto a sum equivalent to at least five dollars

for every share authorized to be issued other than such preferred stock; but in no event shall the amount of such capital be less than five thousand dollars.

(2) Such statements in the articles of incorporation shall be in lieu of the statements required in sub-section 1, clauses (e) and (f) of section 3 of this Act.

(3) Upon the reorganization of any corporation or upon the consolidation of two or more corporations, provision may be made for the issuance of shares without par value as hereinbefore provided by making the same statements in the certificate to be filed after reorganization or in the agreement of consolidation.

Section B. [Shares to be equal.] Each share of stock without par value shall be equal to every other share of stock, subject to the preferences given to the preferred stock (if any) authorized to be issued.

Section C. [Certificate of stock.] (1) Every certificate representing shares without par value shall have written or printed plainly upon its face the number of shares which it represents, the number of shares which the corporation is authorized to issue, and the amount of capital stock, if any, which is represented by preferred shares having a preference as to principal. No such certificate shall express any par value of such shares.

(2) The certificates representing preferred shares having a preference as to principal shall state the amount of such preference, and may state any other rights or preferences given to the holders of such shares.

Section D. [Consideration for shares without par value.] (1) The authorized shares without par value may from time to time be issued and sold for such consideration as may be prescribed in the articles of incorporation or in articles of amendment thereto, or as may from time to time be fixed by the board of directors and approved by a majority in interest of the stockholders at any annual or special meeting duly called.

(2) If it is proposed to issue any shares without par value in consideration for property or for labor or services, such issue shall be authorized as prescribed in sections 21 and 22, but prior to the filing of the certificate in the office of the Secretary of the Commonwealth, as therein provided, the number of shares to be issued in consideration for the property or for the labor or services shall be approved by a majority in interest of the stockholders at any regular annual meeting or special meeting duly called, and the said certificate shall state that such approval has been duly obtained.

(3) Any and all shares so issued and sold shall be deemed fully paid and non-assessable, and the holder of any such shares shall not be liable to the corporation or to its creditors in respect thereof.

Section E. [Restrictions on the commencement of business.] (1) No corporation formed as provided in section A with the

power to issue shares without par value shall commence business or incur any debts until the amount of capital specified in its articles of incorporation as the amount with which it will carry on business shall have been fully paid in money, in property, or in labor or services. But nothing herein shall be held to exempt any corporation from the payment of 10 per centum of its capital stock in cash as prescribed in section 3 of this Act.

(2) If any corporation shall increase the amount of capital specified in its articles of incorporation as the amount with which it will carry on business, the amount of the indebtedness of such corporation then existing shall not be increased until the amount of such increase of the capital shall have been fully paid as aforesaid.

(3) If any debts be incurred by any corporation in violation of the provisions of this section, the directors of the corporation, except those dissenting thereto, who shall have filed their dissent with the secretary of the corporation at the time, or who, being absent, shall have so filed their dissent upon learning of such action, shall be jointly and severally liable for any such debt.

Section F. [Increase or reduction of number of shares or of capital.] (1) Any corporation formed as provided in section A with the power to issue shares without par value may amend its articles of incorporation so as to increase or reduce the number of shares which it may issue, or so as to increase or reduce the amount of its specified capital, by the same method as prescribed in section 11 of this Act for the increase or reduction of the capital stock of a corporation; but such amendment shall conform to the provisions of section A.

(2) If any such corporation shall amend its articles of incorporation so as to increase or reduce the number of shares which it may issue, notice shall within two weeks thereafter be given to each holder of shares without par value, either personally or by mail directed to him at his address as it appears upon the stock books of the corporation, directing such stockholder to return his certificate to the corporation to have the number of shares as increased or reduced written or printed thereon. Such notice shall at the same time be published at least once a week for two weeks in a newspaper published in the county in which the principal office of the corporation is located. Upon the return of any certificate the proper officer of the corporation shall cause to be written or printed plainly thereon the number of shares, as increased or reduced, which the corporation is authorized to issue.

Section G. [Amount of capital stock and of shares within meaning of other laws.] For the purpose of any rule of law or of any statutory provision (other than the foregoing sections A, B, C, D, E, F) relating to the amount of the capital stock of a corporation or the amount of par value of its shares, the aggregate amount of the capital stock of any such corporation formed pursuant to section A shall be deemed to be the amount specified in the articles of incorporation or articles of amend-

ment thereof, the certificate to be filed after reorganization, or the agreement of consolidation, as the amount of capital with which the corporation will carry on business; the amount of the par value of each share of preferred stock having a preference as to principal shall be deemed to be the amount thereof so specified in such articles, amended articles, certificate, or agreement; and the amount or par value of each other share shall be deemed to be an aliquot part of the aggregate capital so specified in excess of the specified amount (if any) of the preferred stock authorized to be issued with a preference as to principal.

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